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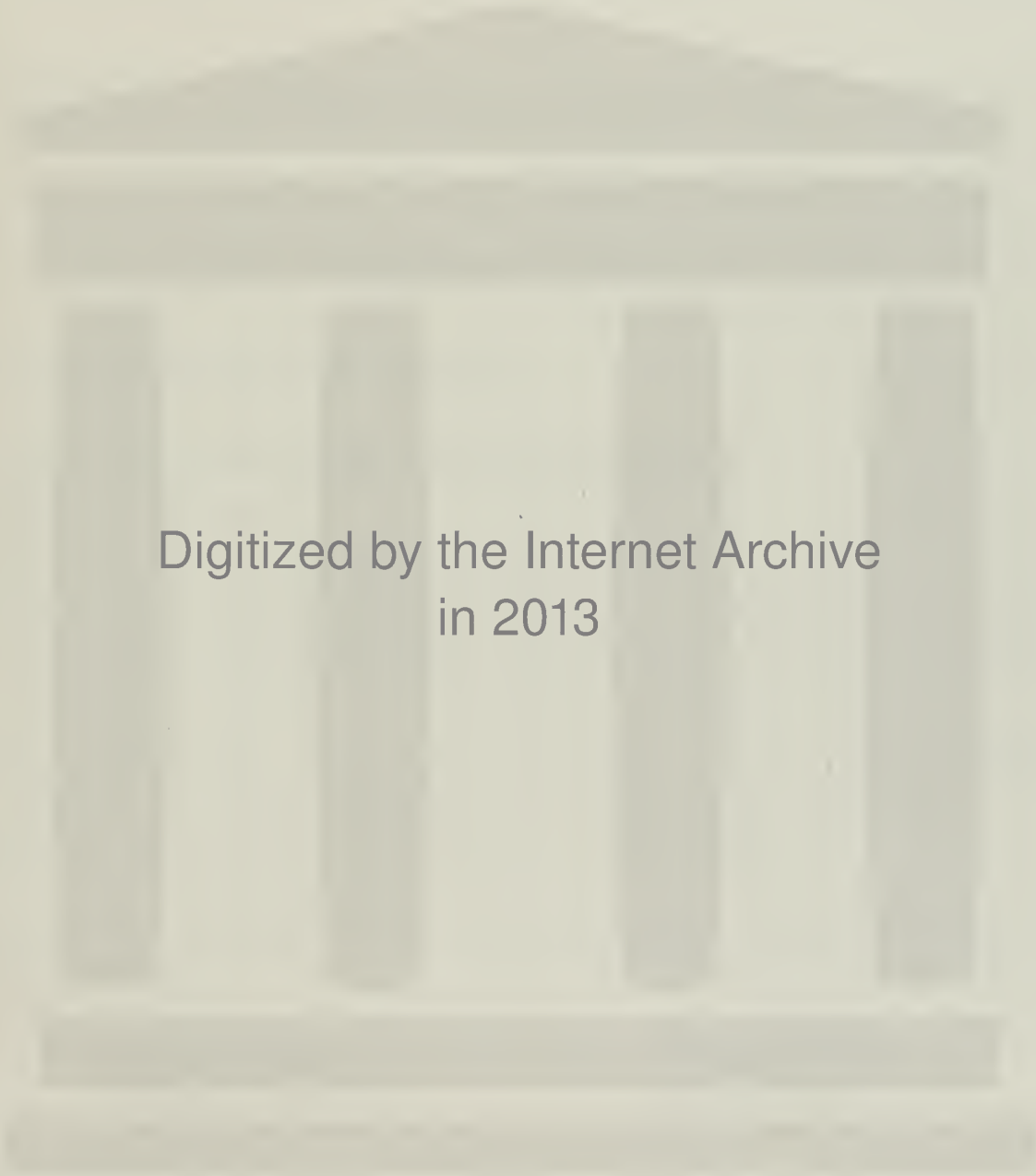
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REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

Agenda

WEDNESDAY, JANUARY 10, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE (FORMERLY 301 POLK STREET)

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 561 Baker Street. Letter from David Abbatematteo, attorney for permit holder, requesting rehearing of Appeal No. 00-103, heard November 15, 2000. Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the sections of the subject permit that remove the improvements on the ground floor, to remove the improvements on the roof, to open both stairways, for fire-rated doors to be installed, and that improvements in the attic space as well as the modified stairways meet the requirements of the Housing Code.

ITEM B: 1660 Mission Street. Letter from Lois H. Scott for IFPTE, Local 21, appellant, requesting rehearing of Appeal No. V00-169, heard December 6, 2000. Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **UPHOLD** the Zoning Administrator with no modifications.

REQUEST FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:

ITEM C: 39 Ellert Street. Letter from Robert Adler requesting that the Board take jurisdiction over Building Permit Application No. 9809227S issued to Arnaldo and Elsa Bustamante for construction of a new 770 s.f. two-story rear addition with deck above.

Date permit issued	November 20, 2000
Last day to appeal	December 5, 2000
Request for jurisdiction	December 6, 2000

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(A) **APPEAL NO. 00-245**

TAMI LAM, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[1751 - 28th Avenue.
[Appeal for Refund of Penalty imposed on
[December 6, 2000.
[APPLICATION NO. 2000/12/06/7324.
[FOR HEARING TODAY.

(B) **APPEAL NO. 00-248**

LEVIT CHAVEZ, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[66 Ceres Street.
[Imposition of Penalty on December 6, 2000.
[APPLICATION NO. 9910307.
[FOR HEARING TODAY.

(C) **APPEAL NO. 00-249**

DANNY Y. LOUIE, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[64 Arleta Avenue.
[Appeal for Refund of Penalty imposed on
[December 13, 2000.
[APPLICATION NO. 2000/12/13/7814.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-167**

SALVATORE & SHIRLEY VERNALE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[952 DeHaro Street.
[Protesting issuance on September 25,
[2000, to Raymond Chan, permit to Alter a
[Building (interior partition work; remodel
[baths and kitchen; minor exterior front
[elevation change; structural and room
[framing under separate addendum permit).
[APPLICATION NO. 2000/09/26/1572.
[PUBLIC HEARING CLOSED AFTER
[TESTIMONY DECEMBER 6, 2000.
[FOR FURTHER CONSIDERATION
[TODAY.

Items (6A) and (6B) shall be heard together

(6A) **APPEAL NO. 98-035**

VICTOR TWAL dba "BUDDIES", Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on February 13, 1998, of permit to
[Alter a Building (legalize awning and sign
[installed without permit).
[APPLICATION NO. 9723854.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 99-197**

MICHAEL CRAWFORD & TOM HANUS,
dba "CHAT CAFÉ", Appellant
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on December 7, 1999, of permit for
[12 chairs on sidewalk.
[FOR HEARING TODAY.

(7) **APPEAL NO. 00-073**

DONALD W. McNABB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1785 Bancroft Avenue.
[Denial on April 28, 2000, of permit to Alter a
[Building (conversion of existing warehouse/
[storage facility into a hot tub/spa estab-
[lishment).
[APPLICATION NO. 9917785.
[FOR HEARING TODAY.

(8) **APPEAL NO. 00-117**

STEPHEN KOCH & KATHRYN NYROP, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[2531-2533 Baker Street.
[Zoning Administrator determination dated [July 6, 2000 that Planning Code Section 188 [clearly allows for the expansion of a non-[conforming building as long as the expan-[sion does not increase the amount of non-[conformity; building additions must be in [compliance with Residential Design [Guidelines (RDG) and Planning Code [Section 101.1 with the RDG applying to [additions and new construction, not to pre-[existing legal non-conformities.
[FOR HEARING TODAY.

(9) **APPEAL NO. 00-190**

RDM EXPRESS, INC., dba "EUROPA EXPRESS", Appellant
vs.
DEPT. OF PUBLIC HEALTH, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[750 La Playa Street.
[Disapproval dated October 3, 2000 of [Health Permit Application Zoning Referral [for storage of goods and materials in a NC-2 [(Small-Scale Neighborhood Commercial) [District to be used by a business at another [location, which is not permitted per [Planning Code Sections 711.66 and [790.117.
[FOR HEARING TODAY.

(10) **APPEAL NO. 00-032**

DAVID BAKER & JANE MARTIN, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Determination by the Zoning Administrator [dated February 16, 2000 that denies request [to designate combined office and storage [Limited Commercial Use space as one [commercial space; denies request that the [apartment area be 375 s.f.; denies request [that the stable/carriage house footprint be [reduced to its original dimensions of [approximately 20 x 25 feet; and denies [request that the stable/carriage house be [used as a workshop.
[PUBLIC HEARING CLOSED AFTER [TESTIMONY APRIL 12, 2000.
[FOR FURTHER CONSIDERATION [TODAY.

(11) **APPEAL NO. V00-168**

RAYMOND WONG, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Protesting granting on September 27, 2000, [to David Baker and Jane Martin, Rear Yard [Variance to demolish existing enclosed work [yard that occupies the rearmost 54 feet of [the property, and to construct a new three-[story structure as an addition to the existing [dwelling unit.
[VARIANCE CASE NO. 2000.662V.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. *Appellant's statement and rebuttal brief.*
2. *Permit holder's response and rebuttal brief.*
3. *Department decision, permit, determination or resolution.*
4. *Public correspondence.*

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

MEMBERS OF THE BOARD OF APPEALS

3

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at **www.ci.sf.ca.us/bdappeal/index.html**.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

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REQUESTS FOR REHEARING

Written requests for rehearing must be filed within ten days from the date of a decision and may be filed only by principals in the appeal. See Article 5, Section 6 for complete rule on rehearings.

ACCESSIBILITY INFORMATION

A sound enhancement system is used at the hearing.

American Sign Language interpreters will be available upon request. Please contact Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Late requests will be honored if possible.

Minutes of the hearing are available in alternative formats. If you require the use of a reader during the meeting, please contact Catherine Johnson at 575-6882, at least 72 hours in advance of need.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-6060 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

The closest BART station is the Civic Center station at 8th and Market Streets. Accessible MUNI Metro lines serving this location are the J, K, L, M and N which stop at Van Ness Avenue and Market Street, and Civic Center station, and the 31 and 42 bus lines. For information about MUNI accessible services call 923-6142.

There is accessible parking in the Civic Center Garage under the Civic Center Plaza across Polk Street from City Hall.

Accessible seating for persons with disabilities (including those using wheelchairs) will be available.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Administrator, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689, telephone (415) 554-7724, fax (415) 554-5163, and e-mail **Donna_Hall@ci.sf.ca.us**. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's web site at **www.ci.sf.ca.us/bdsupvrs/sunshine**.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, web site **www.ci.sf.ca.us/ethics**, fax (415) 703-0121.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Linda D. Avery, Acting Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, JANUARY 10, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioners Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Linda Avery, Acting Executive Secretary for the Board.

ABSENT: Commissioner Carole Cullum.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: President Chin, Commissioners El Qadah and McInerney enumerated equipment and supplies needs for the Board office and requested that budget matters be calendared for February 7, 2001.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 561 Baker Street. Letter from David Abbatematteo, attorney for permit holder, Terrance Allen, requesting rehearing of Appeal No. 00-103, heard November 15, 2000. Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the sections of the subject permit that remove the improvements on the ground floor, to remove the improvements on the roof, to open both stairways, for fire-rated doors to be installed, and that improvements in the attic space as well as the modified stairways meet the requirements of the Housing Code.

ACTION: After discussion, upon motion by President Chin, the Board voted 4-0 (Commission Cullum absent) to **DENY** the request for rehearing.

SPEAKERS: **1.** Andrew Wiegel, attorney for the permit holder, testified that he was requesting clarification of the Board's decision, rather than a rehearing. **2.** Laurence Kornfield, CBI reported that he met with the permit holder's architect and reviewed the plans.

ITEM B: 1660 Mission Street. Letter from Lois H. Scott for IFPTE, Local 21, appellant, requesting rehearing of Appeal No. V00-169, heard December 6, 2000. Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **UPHOLD** the Zoning Administrator with no modifications.

ACTION: After discussion, upon motion by President Chin, the Board voted 3-1 (Commissioner El Qadah dissented, Commissioner Cullum absent) to **DENY** the request for rehearing.

SPEAKERS: **1.** Mark Paez, for appellant, urged the Board to grant a rehearing. **2.** Laurence Badiner, ZA commented that parking for City vehicles is a condition of the variance. **3.** Neil Friedman, Building Inspector for DBI urged the Board to deny the request for rehearing.

REQUEST FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:

ITEM C: 39 Ellert Street. Letter from Robert Adler requesting that the Board take jurisdiction over Building Permit Application No. 9809227S issued to Arnaldo and Elsa Bustamante for construction of a new 770 s.f. two-story rear addition with deck above.

Date permit issued	November 20, 2000
Last day to appeal	December 5, 2000
Request for jurisdiction	December 6, 2000

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 4-0 (Commissioner Cullum absent) to **DENY** the request for jurisdiction.

SPEAKERS: **1.** Robert Adler, requestor testified that he was confused about the dates on the issuance notice and asked that the Board grant his request. **2.** Jennifer Torbohn, attorney for permit holder, urged the Board to deny the request.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(A) **APPEAL NO. 00-245**

TAMI LAM, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[1751 - 28th Avenue.
[Appeal for Refund of Penalty imposed on
[December 6, 2000.
[APPLICATION NO. 2000/12/06/7324.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 4-0 (Commissioner Cullum absent) to **OVERRULE** the department with the **CONDITION** that the penalty be reduced to three times the regular fee of $85.15 for a total of $255.45.

SPEAKERS: Tami Lam, appellant testified that her contractor did not know a permit was needed. **2.** Laurence Kornfield, CBI reported that once the appellant was cited, she applied for a permit to legalize the work.

(B) **APPEAL NO. 00-248**

LEVIT CHAVEZ, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[66 Ceres Street.
[Imposition of Penalty on December 6, 2000.
[APPLICATION NO. 9910307.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 (Commissioner Cullum absent) to **OVERRULE** the department with the **CONDITION** that the penalty be reduced to two times the regular fee of $378.30 for a total of $756.60.

SPEAKERS: The appellant was present but did not speak.

(C) **APPEAL NO. 00-249**

DANNY Y. LOUIE, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[64 Arleta Avenue.
[Appeal for Refund of Penalty imposed on
[December 13, 2000.
[APPLICATION NO. 2000/12/13/7814.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 4-0 (Commissioner Cullum absent) to **OVERRULE** the department with the **CONDITION** that the penalty be reduced to two times the regular fee of $215.80 for a total of $431.60.

SPEAKERS: The appellant was present but did not speak.

(5) **APPEAL NO. 00-167**

SALVATORE & SHIRLEY VERNALE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[952 DeHaro Street.
[Protesting issuance on September 25,
[2000, to Raymond Chan, permit to Alter a
[Building (interior partition work; remodel
[baths and kitchen; minor exterior front
[elevation change; structural and room
[framing under separate addendum permit).
[APPLICATION NO. 2000/09/26/1572.
[PUBLIC HEARING CLOSED AFTER
[TESTIMONY DECEMBER 6, 2000.
[FOR FURTHER CONSIDERATION
[TODAY.

ACTION: **RESCHEDULED** to **January 24, 2001** at request of Jeremy Paul, agent for permit holder.

Items (6A) and (6B) were heard together

(6A) **APPEAL NO. 98-035**

VICTOR TWAL dba "BUDDIES", Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on February 13, 1998, of permit to
[Alter a Building (legalize awning and sign
[installed without permit).
[APPLICATION NO. 9723854.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 99-197**

MICHAEL CRAWFORD & TOM HANUS,
dba "CHAT CAFÉ", Appellants
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on December 7, 1999, of permit for
[12 chairs on sidewalk.
[FOR HEARING TODAY.

ACTION: **RESCHEDULED** to **April 11, 2001** prior to hearing at request of appellants.

(7) **APPEAL NO. 00-073**

DONALD W. McNABB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1785 Bancroft Avenue.
[Denial on April 28, 2000, of permit to Alter a
[Building (conversion of existing warehouse/
[storage facility into a hot tub/spa estab-
[lishment).
[APPLICATION NO. 9917785.
[FOR HEARING TODAY.

ACTION: RESCHEDULED to **March 7, 2001** prior to hearing at request of appellant.

(8) **APPEAL NO. 00-117**

STEPHEN KOCH & KATHRYN NYROP, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[2531-2533 Baker Street.
[Zoning Administrator determination dated [July 6, 2000 that Planning Code Section 188 [clearly allows for the expansion of a non-[conforming building as long as the expan-[sion does not increase the amount of non-[conformity; building additions must be in [compliance with Residential Design [Guidelines (RDG) and Planning Code [Section 101.1 with the RDG applying to [additions and new construction, not to pre-[existing legal non-conformities.
[FOR HEARING TODAY.

ACTION: RESCHEDULED to **April 11, 2001** prior to hearing at request of parties.

(9) **APPEAL NO. 00-190**

RDM EXPRESS, INC., dba "EUROPA EXPRESS", Appellant
vs.
DEPT. OF PUBLIC HEALTH, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[750 La Playa Street.
[Disapproval dated October 3, 2000 of [Health Permit Application Zoning Referral [for storage of goods and materials in a NC-2 [(Small-Scale Neighborhood Commercial) [District to be used by a business at another [location, which is not permitted per [Planning Code Sections 711.66 and [790.117.
[FOR HEARiNG TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 4-0 (Commissioner Cullum absent) to **OVERRULE** the Zoning Administrator and allow the storage of goods and materials at the subject location.

SPEAKER: Lawrence Badiner, ZA testified that the Planning Department had erred in its decision and no longer opposed the zoning referral.

(10) **APPEAL NO. 00-032**

DAVID BAKER & JANE MARTIN, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Determination by the Zoning Administrator [dated February 16, 2000 that denies request [to designate combined office and storage [Limited Commercial Use space as one [commercial space; denies request that the [apartment area be 375 s.f.; denies request [that the stable/carriage house footprint be [reduced to its original dimensions of [approximately 20 x 25 feet; and denies [request that the stable/carriage house be [used as a workshop.
[PUBLIC HEARING CLOSED AFTER [TESTIMONY APRIL 12, 2000.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: RESCHEDULED to **February 7, 2001** prior to hearing at request of the parties.

(11) **APPEAL NO. V00-168**

RAYMOND WONG, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Protesting granting on September 27, 2000, [to David Baker and Jane Martin, Rear Yard [Variance to demolish existing enclosed work [yard that occupies the rearmost 54 feet of [the property, and to construct a new three-[story structure as an addition to the existing [dwelling unit.
[VARIANCE CASE NO. 2000.662V.
[FOR HEARING TODAY.

ACTION: RESCHEDULED to **February 7, 2001** prior to hearing at request of the parties.

There being no further business, President Chin adjourned the meeting at 6:35 p.m.

Arnold Y.K. Chin, President

Linda D. Avery, Acting Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, JANUARY 17, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

JAN 12 2001

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PUBLIC LIBRARY

(2) **ELECTION OF OFFICERS.**

(3) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(4) **APPEAL NO. 99-035**

LUCINDA HAMPTON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2234-2236 Francisco Street.
[Protesting issuance on November 12, 1998, [to John and Evelyn Schiappacasse, permit [to Alter a Building (remove walls to provide [parking spaces and remove daycare facility).
[APPLICATION NO. 9823286.
[JURISDICTION GRANTED MARCH 18, [1999.
[FOR FURTHER HEARING TODAY.

(5) **APPEAL NO. 00-163**

WILBERT L. & JODI FREEMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[180 Leland Avenue.
[Protesting issuance on September 16, [2000, to Donald W. Wong, permit to [Alter a [Building (remove illegal unit including [kitchen, bath, two non-bearing interior walls; [rearrange existing bath and kitchen).
[APPLICATION NO. 2000/09/16/0731)
[PUBLIC HEARING HELD AND CLOSED [NOVEMBER 15, 2000.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. V00-010**

ALI KHOSTOVAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1133 Hayes Street.
[Denial on December 9, 1999 of Parking [Variance (to add one unit to an existing five-[unit building without providing the required [parking space).
[(JURISDICTION GRANTED ON JANUARY [12, 2000).
[VARIANCE CASE NO. 99.613V.
[FOR FURTHER HEARING TODAY.

Items (7A) and (7B) shall be heard together

(7A) **APPEAL NO. 00-088**

IRON WORKS LOFT VENTURES, INC., Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1201 Harrison Street.
[Protesting issuance on May 23, 2000, to [Equilon Enterprises, LLC, permit to [Demolish a Building (food mart and [gasoline fueling facility).
[APPLICATION NO. 9923713.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 00-089**

IRON WORKS LOFT VENTURES, INC., Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1201 Harrison Street.
[Protesting issuance on May 23, 2000, to [Equilon Enterprises, LLC, permit to Erect a [Building (car wash, retail sales/food mart).
[APPLICATION NO. 9919529.
[FOR HEARING TODAY.

(8) **APPEAL NO. 00-200**

KAREN SNELL, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[112 Buena Vista Terrace.
[Protesting issuance on October 13, 2000, to [Jose Cisneros, permit to Alter a Building [(horizontal addition to existing garage and [second floor; new vertical two-story [addition).
[APPLICATION NO. 2000/04/25/8122S).
[FOR HEARING TODAY.

(9) **APPEAL NO. 00-202**

THOMAS & MARTINA MURPHY, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[598 Hampshire Street.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) and [233(b) dated October 13, 2000 (property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

(10) **APPEAL NO. 00-201**

AMERICAN INDUSTRIAL CENTER, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2345 Third Street.
[Determination dated October 16, 2000 that [a perspective tenant, Michael Patrick [Partners, Inc., a 16-person company that [offers corporate identity and branding to a [variety of clientele, is an "office" use under [the Planning Code, which is a principally [permitted use within a M-2 (Heavy [Industrial) zoning district; and that due to [the Investigation of alleged violation of [Planning Code 321, unauthorized creation of [an office development, the Planning [Department will not be able to immediately [approve a building permit for "office" use.
[FOR HEARING TODAY.

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at **www.ci.sf.ca.us/bdappeal/index.html**.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

REQUESTS FOR REHEARING

Written requests for rehearing must be filed within ten days from the date of a decision and may be filed only by principals in the appeal. See Article 5, Section 6 for complete rule on rehearings.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail **Donna_Hall@ci.sf.ca.us**. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's web site at **www.ci.sf.ca.us/bdsupvrs/sunshine**.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, web site **www.ci.sf.ca.us/ethics**, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Linda D. Avery, Acting Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, JANUARY 17, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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PUBLIC LIBRARY

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator (ZA); Sean McNulty, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Linda Avery, Acting Executive Secretary.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **ELECTION OF OFFICERS.**

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **RE-ELECT** Arnold Chin as President and Sabrina Saunders as Vice President.

(3) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: **1.** President Chin invited the other Commissioners to the Chinese New Year Parade. **2.** Judith Boyajian, Deputy City attorney advised the Board that the City Attorney has received President Chin's letter concerning alleged conflicts of interest.

(4) **APPEAL NO. 99-035**

LUCINDA HAMPTON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2234-2236 Francisco Street.
[Protesting issuance on November 12, 1998,
[to John and Evelyn Schiappacasse, permit
[to Alter a Building (remove walls to provide
[parking spaces and remove daycare facility).
[APPLICATION NO. 9823286.
[JURISDICTION GRANTED MARCH 18,
[1999.
[FOR FURTHER HEARING TODAY.

ACTION: **WITHDRAWN** prior to hearing by Lawrence Alioto, attorney for appellant.

(5) **APPEAL NO. 00-163**

WILBERT L. & JODI FREEMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[180 Leland Avenue.
[Protesting issuance on September 16, [2000, to Donald W. Wong, permit to Alter a [Building (remove illegal unit including [kitchen, bath, two non-bearing interior walls; [rearrange existing bath and kitchen).
[APPLICATION NO. 2000/09/16/0731)
[PUBLIC HEARING HELD AND CLOSED [NOVEMBER 15, 2000.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the department and **GRANT** the permit with **CONDITIONS: 1.** Suspend action on that part of the permit that relates to the area of the building occupied by the appellants until the earlier of March 31, 2001 or the time the appellants vacate the premises. **2.** Construction can continue on the unoccupied portions of the building during daylight business hours.

SPEAKERS: 1. Sean McNulty (CBI, DBI) reported on the visual inspection conducted by Laurence Kornfield (CBI, DBI) and stated that the work appears to meet the Building Code, although permits were not issued for all of the alterations; that the building has been poorly maintained; and the building could be developed into two dwelling units. **2.** Lawrence Badiner (ZA) said that the project appears to meet Planning Code requirements. **3.** Suzanne Yee, attorney for permit holder urged the Board to uphold the permit. **4.** Ken Lee, architect for permit holder reported that he has prepared plans that will bring the building up to code for two dwelling units. **5.** Wilbert Freeman, appellant requested more time to find a new home and relocation money.

(6) **APPEAL NO. V00-010**

ALI KHOSTOVAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1133 Hayes Street.
[Denial on December 9, 1999 of Parking [Variance (to add one unit to an existing five-[unit building without providing the required [parking space).
[(JURISDICTION GRANTED ON JANUARY [12, 2000).
[VARIANCE CASE NO. 99.613V.
[FOR FURTHER HEARING TODAY.

ACTION: After discussion, upon motion by President Chin, the Board voted 5-0 to **CONTINUE** the matter to **March 28, 2001** with the direction that the Zoning Administrator assists in resolving the issues.

SPEAKERS: 1. Amad Mohazab, architect appellant reported he did not have a parking agreement and requested more time to negotiate with the neighbors.

Items (7A) and (7B) were heard together

(7A) **APPEAL NO. 00-088**

IRON WORKS LOFT VENTURES, INC., Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1201 Harrison Street.
[Protesting issuance on May 23, 2000, to [Equilon Enterprises, LLC, permit to [Demolish a Building (food mart and [gasoline fueling facility).
[APPLICATION NO. 9923713.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-163**

WILBERT L. & JODI FREEMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[180 Leland Avenue.
[Protesting issuance on September 16, [2000, to Donald W. Wong, permit to Alter a [Building (remove illegal unit including [kitchen, bath, two non-bearing interior walls; [rearrange existing bath and kitchen).
[APPLICATION NO. 2000/09/16/0731)
[PUBLIC HEARING HELD AND CLOSED [NOVEMBER 15, 2000.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the department and **GRANT** the permit with **CONDITIONS: 1.** Suspend action on that part of the permit that relates to the area of the building occupied by the appellants until the earlier of March 31, 2001 or the time the appellants vacate the premises. **2.** Construction can continue on the unoccupied portions of the building during daylight business hours.

SPEAKERS: 1. Sean McNulty (CBI, DBI) reported on the visual inspection conducted by Laurence Kornfield (CBI, DBI) and stated that the work appears to meet the Building Code, although permits were not issued for all of the alterations; that the building has been poorly maintained; and the building could be developed into two dwelling units. **2.** Lawrence Badiner (ZA) said that the project appears to meet Planning Code requirements. **3.** Suzanne Yee, attorney for permit holder urged the Board to uphold the permit. **4.** Ken Lee, architect for permit holder reported that he has prepared plans that will bring the building up to code for two dwelling units. **5.** Wilbert Freeman, appellant requested more time to find a new home and relocation money.

(6) **APPEAL NO. V00-010**

ALI KHOSTOVAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1133 Hayes Street.
[Denial on December 9, 1999 of Parking [Variance (to add one unit to an existing five-[unit building without providing the required [parking space).
[(JURISDICTION GRANTED ON JANUARY [12, 2000).
[VARIANCE CASE NO. 99.613V.
[FOR FURTHER HEARING TODAY.

ACTION: After discussion, upon motion by President Chin, the Board voted 5-0 to **CONTINUE** the matter to **March 28, 2001** with the direction that the Zoning Administrator assists in resolving the issues.

SPEAKERS: 1. Amad Mohazab, architect appellant reported he did not have a parking agreement and requested more time to negotiate with the neighbors.

Items (7A) and (7B) were heard together

(7A) **APPEAL NO. 00-088**

IRON WORKS LOFT VENTURES, INC., Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1201 Harrison Street.
[Protesting issuance on May 23, 2000, to [Equilon Enterprises, LLC, permit to [Demolish a Building (food mart and [gasoline fueling facility).
[APPLICATION NO. 9923713.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 00-089**

IRON WORKS LOFT VENTURES, INC., Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1201 Harrison Street.
[Protesting issuance on May 23, 2000, to [Equilon Enterprises, LLC, permit to Erect a [Building (car wash, retail sales/food mart).
[APPLICATION NO. 9919529.
[FOR HEARING TODAY.

ACTION: **WITHDRAWN** prior to hearing by Alice Barkley, attorney for appellant.

(8) **APPEAL NO. 00-200**

KAREN SNELL, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[112 Buena Vista Terrace.
[Protesting issuance on October 13, 2000, to [Jose Cisneros, permit to Alter a Building [(horizontal addition to existing garage and [second floor; new vertical two-story [addition).
[APPLICATION NO. 2000/04/25/8122S).
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the department and **GRANT** the permit with the following **CONDITIONS: 1.** The back stairs be removed and replaced with a jomy ladder. **2.** If there are any windows within three feet of the property line that the project sponsor record the notices required under Building Code Section 5A. **3.** As long as the vertical additions are set back, the property line windows can remain uncovered.

SPEAKERS: 1. Raymond McGrath, appellant's husband expressed concern about the proposed back staircase blocking the light and air to the appellant's garden; he stated that if the appellants extended their building, the second floor windows of the project sponsor would be covered, and requested that the setbacks, height restrictions, the back staircase and the status of second floor windows be recorded in a Notice of Special Restrictions. **2.** Mark Brand, architect for permit holder agreed to the conditions requested by the appellants. **3.** Sean McNulty (CBI, DBI) said that a jomy ladder could be approved for the project. **Public Comment in Support of Appellant: 4.** Joe O'Donoghue urged the Board to make the conditions requested by the appellant be recorded as part of a deed restriction.

(9) **APPEAL NO. 00-202**

THOMAS & MARTINA MURPHY, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[598 Hampshire Street.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) and [233(b) dated October 13, 2000 (property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **DISMISS** the matter due to lack of jurisdiction and that the appeal fee be refunded to the appellant.

SPEAKER: Lawrence Badiner (ZA) acknowledged that the Board does not have jurisdiction over a request for information and that the matter is not ready for appeal.

(10) **APPEAL NO. 00-201**

AMERICAN INDUSTRIAL CENTER, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2345 Third Street.
[Determination dated October 16, 2000 that [a perspective tenant, Michael Patrick [Partners, Inc., a 16-person company that [offers corporate identity and branding to a [variety of clientele, is an "office" use under [the Planning Code, which is a principally [permitted use within a M-2 (Heavy [Industrial) zoning district; and that due to [the Investigation of alleged violation of [Planning Code 321, unauthorized creation of [an office development, the Planning [Department will not be able to immediately [approve a building permit for "office" use.
[FOR HEARING TODAY.

ACTION: WITHDRAWN prior to hearing by Andrew Junius, attorney for appellant.

There being no further business, President Chin adjourned the meeting at 7:00 p.m.

Arnold Y.K. Chin, President

Linda D. Avery, Acting Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, JANUARY 24, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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PUBLIC LIBRARY

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

Items (3A) through (3H) shall be heard together

(3A) **APPEAL NO. 00-218**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001011.
[FOR HEARING TODAY.

(3B) **APPEAL NO. 00-219**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001012.
[FOR HEARING TODAY.

(3C) **APPEAL NO. 00-220**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001013.
[FOR HEARING TODAY.

(3D) **APPEAL NO. 00-221**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001014.
[FOR HEARING TODAY.

(3E) **APPEAL NO. 00-222**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment [permit on October 27, 2000, for failure to [pay license fee.
[PERMIT NO. P23-001084.
[FOR HEARING TODAY.

(3F) **APPEAL NO. 00-223**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment [permit on October 27, 2000, for failure to [pay license fee.
[PERMIT NO. P23-001085.
[FOR HEARING TODAY.

(3G) **APPEAL NO. 00-224**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment [permit on October 27, 2000, for failure to [pay license fee.
[PERMIT NO. P23-001086.
[FOR HEARING TODAY.

(3H) **APPEAL NO. 00-225**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment [permit on October 27, 2000, for failure to [pay license fee.
[PERMIT NO. P23-001087.
[FOR HEARING TODAY.

(4) **APPEAL NO. 00-226**

ANNIE A. BERTHIAUME, dba "VSF", Appellant
vs.
POLICE DEPARTMENT, Respondent

[278 - 11th Street.
[Revocation of Billiard Parlor permit on [October 27, 2000, for failure to pay license [fee.
[PERMIT NO. P12-001055.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-227**

NOEL A. GARAY, Appellant
vs.
POLICE DEPARTMENT, Respondent

[Revocation of Tow Car Operator permit on [October 27, 2000, for failure to pay license [fee.
[PERMIT NO. P43-001155.
[FOR HEARING TODAY.

(6) **APPEAL NO. 00-167**

SALVATORE & SHIRLEY VERNALE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[952 DeHaro Street.
[Protesting issuance on September 25, [2000, to Raymond Chan, permit to Alter a [Building (interior partition work; remodel [baths and kitchen; minor exterior front [elevation change; structural and room [framing under separate addendum permit).
[APPLICATION NO. 2000/09/26/1572.
[PUBLIC HEARING CLOSED DECEMBER [6, 2000.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 00-059**

KATHRYN L. ANDERSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[347A Masonic Avenue.
[Protesting issuance on April 4, 2000, to [John Mallory, permit to Alter a Building [(relocate wall between unit and garage; [level floor; change sink/wash basin location; [add electrical fixtures; remove illegal unit [and revert to original use).
[APPLICATION NO. 2000/02/23/2634.
[FOR REHEARING TODAY.

(8) **APPEAL NO. 00-212**

MYRA HOM SHORT, Appellant
vs.
DEPT. OF PUBLIC WORKS, Respondent

[653 Irving Street.
[Denial on October 27, 2000, of permit to [Remove and Replace One Tree.
[ORDER NO. 172,618.
[FOR HEARING TODAY.

(9) **APPEAL NO. 00-210**

BRUCE & ELIZABETH ERICSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[2660 Green Street.
[Protesting issuance on October 17, 2000, to [John and Joan Lavorgna, permit to Alter a [Building (remodel kitchen, bath and [bedroom; repair existing rear deck).
[APPLICATION NO. 2000/10/17/3189.
[FOR HEARING TODAY.

(10) **APPEAL NO. 00-215**

JOAN COLEMAN SPAARGAREN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[710 - 10th Avenue.
[Determination dated October 20, 2000 that [the work performed on the property July 21, [2000 constituted an unlawful demolition [pursuant to Building Code Section 103.3 [and the permits are hereby revoked.
[APPLICATION NOS. 9905698S1,
[2000/04/07/6740.
[FOR HEARING TODAY.

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

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COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Linda D. Avery, Acting Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, JANUARY 24, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

PRESENT: Vice President Sabrina Saunders, Commissioners Carole Cullum, Allam El Qadah, and John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); Isolde Wilson representing the Zoning Administrator and the Planning Department; and Sgt. William Coggan, Police Department Legal Division (PDLD).

ABSENT: President Arnold Chin; and Linda Avery, Acting Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

DOCUMENTS DEPT.

JAN 2 9 2001

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: None.

Items (3A) through (3H) were heard together

(3A) **APPEAL NO. 00-218**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001011.
[FOR HEARING TODAY.

(3B) **APPEAL NO. 00-219**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001012.
[FOR HEARING TODAY.

(3C) **APPEAL NO. 00-220**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001013.
[FOR HEARING TODAY.

(3D) **APPEAL NO. 00-221**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Dance Hall Keeper permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P22-001014.
[FOR HEARING TODAY.

(3E) **APPEAL NO. 00-222**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment
[permit on October 27, 2000, for failure to
[pay license fee.
[PERMIT NO. P23-001084.
[FOR HEARING TODAY.

(3F) **APPEAL NO. 00-223**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment
[permit on October 27, 2000, for failure to
[pay license fee.
[PERMIT NO. P23-001085.
[FOR HEARING TODAY.

(3G) **APPEAL NO. 00-224**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment
[permit on October 27, 2000, for failure to
[pay license fee.
[PERMIT NO. P23-001086.
[FOR HEARING TODAY.

(3H) **APPEAL NO. 00-225**

METREON, A SONY ENTERTAINMENT CENTER, Appellant
vs.
POLICE DEPARTMENT, Respondent

[101 Fourth Street.
[Revocation of Place of Entertainment
[permit on October 27, 2000, for failure to
[pay license fee.
[PERMIT NO. P23-001087.
[FOR HEARING TODAY.

ACTION: WITHDRAWN by appellant prior to hearing.

(4) **APPEAL NO. 00-226**

ANNIE A. BERTHIAUME, dba "VSF", Appellant
vs.
POLICE DEPARTMENT, Respondent

[278 - 11th Street.
[Revocation of Billiard Parlor permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P12-001055.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 4-0 (President Chin absent) to **RESCHEDULE** the matter to **February 7, 2001** to allow Sergeant Coggan time to contact the appellant and request that she withdraw her appeal since the license fee has been paid.

SPEAKER: Sergeant William Coggan, PDLD reported that the appellant has paid the license fee and that the permit has been reinstated.

(5) **APPEAL NO. 00-227**

NOEL A. GARAY, Appellant
vs.
POLICE DEPARTMENT, Respondent

[Revocation of Tow Car Operator permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P43-001155.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 4-0 (President Chin absent) to **RESCHEDULE** the matter to **February 28, 2001** to allow Sergeant Coggan time to contact the appellant.

SPEAKER: Sergeant William Coggan, PDLD requested time to contact the appellant to arrange for payment of the license fee.

(6) **APPEAL NO. 00-167**

SALVATORE & SHIRLEY VERNALE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[952 DeHaro Street.
[Protesting issuance on September 25,
[2000, to Raymond Chan, permit to Alter a
[Building (interior partition work; remodel
[baths and kitchen; minor exterior front
[elevation change; structural and room
[framing under separate addendum permit).
[APPLICATION NO. 2000/09/26/1572.
[PUBLIC HEARING CLOSED DECEMBER
[6, 2000.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 4-0 (President Chin absent) to **UPHOLD** the department and **GRANT** the permit with the **CONDITION** the roof line be restored as shown in the revised plans dated January 23, 2001.

SPEAKERS: **1.** Jeremy Paul, representative for permit holder apologized for the delay in submitting revised plans. **2.** Robert Daniels, representative for the appellant stated that the parties have reached an agreement as long as the roof line is restored according to the drawing submitted at hearing.

(7) **APPEAL NO. 00-059**

KATHRYN L. ANDERSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[347A Masonic Avenue.
[Protesting issuance on April 4, 2000, to
[John Mallory, permit to Alter a Building
[(relocate wall between unit and garage;
[level floor; change sink/wash basin location;
[add electrical fixtures; remove illegal unit
[and revert to original use).
[APPLICATION NO. 2000/02/23/2634.
[FOR REHEARING TODAY.

ACTION: **WITHDRAWN** by appellant prior to hearing.

(8) **APPEAL NO. 00-212**

MYRA HOM SHORT, Appellant
vs.
DEPT. OF PUBLIC WORKS, Respondent

[653 Irving Street.
[Denial on October 27, 2000, of permit to
[Remove and Replace One Tree.
[ORDER NO. 172,618.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-1 (Commissioner McInerney dissented, President Chin absent) to overrule the department and grant the permit with the condition that the replacement tree is of a more suitable species. Four votes being necessary to overrule a department, the motion **FAILED** and the subject denial was **UPHELD**.

SPEAKERS: 1. Paul Sacamano, Program Manager for Urban Forestry explained the reasons for denying the permit. **2.** Myra Hom Short, appellant urged the Board to allow her to remove the tree and replace it with a much smaller one.

(9) **APPEAL NO. 00-210**

BRUCE & ELIZABETH ERICSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[2660 Green Street.
[Protesting issuance on October 17, 2000, to
[John and Joan Lavorgna, permit to Alter a
[Building (remodel kitchen, bath and
[bedroom; repair existing rear deck).
[APPLICATION NO. 2000/10/17/3189.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 4-0 (President Chin absent) to **UPHOLD** the department and **GRANT** the permit with the **CONDITIONS** as stated in the agreement by the parties dated January 15, 2001.

SPEAKERS: 1. Bruce Ericson, appellant stated that the parties had reached an agreement. **2.** Christopher Rose, architect for the permit holders concurred with the appellants.

(10) **APPEAL NO. 00-215**

JOAN COLEMAN SPAARGAREN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[710 - 10th Avenue.
[Determination dated October 20, 2000 that
[the work performed on the property July 21,
[2000 constituted an unlawful demolition
[pursuant to Building Code Section 103.3
[and the permits are hereby revoked.
[APPLICATION NOS. 9905698S1,
[2000/04/07/6740.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 4-0 (President Chin absent) to **CONTINUE** the matter to **February 7, 2001**.

SPEAKERS: 1. Laurence Kornfield, CBI, DBI did not object to a new hearing date. **2.** John Sanger, attorney for appellant requested that the matter be moved to the next available calendar when a full Board will be present.

There being no further business, Commissioner McInerey adjourned the meeting at 6:42 p.m.

John E. McInerney, Commissioner

Linda D. Avery, Acting Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

Agenda

WEDNESDAY, FEBRUARY 7, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **REQUEST FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:** 194 Park Street. Letter from Johanna J. Coble, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/07/1278 issued to the San Francisco Fire Department for providing disabled access at first floor, 320 square foot addition to the second floor incorporating toilet/shower/locker facilities within the dormitory, upgrade mechanical and electrical systems, perform hazardous material abatement, rearrange slide pole location, provide miscellaneous repairs, and upgrade finishes throughout.

Date issued	December 21, 2000
Last day to appeal	January 5, 2001
Request for jurisdiction	January 26, 2001

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(A) **APPEAL NO. 01-003**

NINA GURALNIK, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[PLUMBING PERMIT NO. P396394.
[FOR HEARING TODAY.

(B) **APPEAL NO. 01-004**

NINA GURALNIK, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[ELECTRICAL PERMIT NO. E211126.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-226**

ANNIE A. BERTHIAUME, dba "VSF", Appellant
vs.
POLICE DEPARTMENT, Respondent

[278 - 11th Street.
[Revocation of Billiard Parlor permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P12-001055.
[FOR HEARING TODAY.

Items (6A) and (6B) shall be heard together

(6A) **APPEAL NO. 00-232**

ELIZA NGO & KING MA, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[4851 - 4855 Mission Street.
[Protesting issuance on October 30, 2000, to
[Michael O'Mahoney, permit to Demolish a
[Building (commercial).
[APPLICATION NO. 2000/10/17/3191.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 00-243**

ELIZA NGO, KING MA, PHILIP GOMES, DENNIS YUN, CHRIS ENNIS, SHI BANG HUANG, HENRIETTA WILSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[4851 - 4855 Mission Street.
[Protesting issuance on October 30, 2000, to
[Michael O'Mahoney, permit to Erect a
[Building (six dwelling units over commercial)
[APPLICATION NO. 2000/02/07/1199S.
[FOR HEARING TODAY.

(7) **APPEAL NO. 00-215**

JOAN COLEMAN SPAARGAREN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[710 - 10th Avenue.
[Determination dated October 20, 2000 that
[the work performed on the property July 21,
[2000 constituted an unlawful demolition
[pursuant to Building Code Section 103.3
[and the permits are hereby revoked.
[APPLICATION NOS. 9905698S1,
[2000/04/07/6740.
[FOR HEARING TODAY.

(8) **APPEAL NO. 00-164**

GLENN GEE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1500 Cole Street.
[Protesting issuance on September 19,
[2000, to William Wolcott, permit to Alter a
[Building (third story vertical addition to
[include master bedroom and bathroom with
[new stairs to story; add new bathroom to
[SW corner at second floor).
[APPLICATION NO. 9915721S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 00-211**

ELIZABETH HALTON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1120 Kearny Street.
[Protesting issuance on July 28, 2000, (stop
[work order issued October 20, 2000) to
[Frank Chan, permit to Alter a Building
[(seismic upgrade; relocate all kitchens and
[bathrooms; install exterior walls and roof
[insulation; repair fire damaged unit).
[APPLICATION NO. 2000/07/14/5201.
[FOR HEARING TODAY.

(10) **APPEAL NO. 00-228**

ANA DANIEL, Appellant
vs.
DEPT. OF PUBLIC WORKS, Respondent

[1420 Taylor Street.
[Protesting issuance on October 27, 2000, to [1420 Taylor Street Apartments, permit to [remove and replace two trees.
[ORDER NO. 172,619.
[FOR HEARING TODAY.

(11) **APPEAL NO. V00-213**

MARCO HEITHAUS, JONATHAN BROWNING & TIM HEPWORTH, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[377-379 Collingwood Street.
[Denial of Rear Yard Variance (replace [existing noncomplying rear deck; this [proposal also includes a new roof deck [which is not part of this variance request).
[VARIANCE CASE NO. 2000.129V.
[FOR HEARING TODAY.

(12) **APPEAL NO. 00-231**

BRYANT SPRINGS LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[840 Bryant Street.
[Zoning Administrator determination dated [October 30, 2000 that Cal Trans legally [occupied approximately 13,900 s.f. of the [premises as "pre-existing office space" for at [least six years prior to the building's current [vacancy and that the remaining 8,240 s.f. of [unoccupied space is considered to be an ["industrial" use because Cal Trans did not [occupy it for a five-year period in order to [convert the space to an office use; and that [the project sponsor must apply for office [development authorization pursuant to [Planning Code Sections 321 and 323 to [create 33,174 s.f. of office space.
[FOR HEARING TODAY.

(13) **APPEAL NO. 00-234**

ROBERT & HARUMI TAI, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[5 Freelon Street.
[Zoning Administrator determination dated [November 7, 2000, that no evidence has [been established that demonstrates an [official change in use of the subject property [from "industrial" to "office" as a principal use; [and any current or future attempt to occupy [the subject property as "office" use would be [considered a violation of the Planning [Code.
[FOR HEARING TODAY.

(14) **APPEAL NO. 00-032**

DAVID BAKER & JANE MARTIN, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Determination by the Zoning Administrator [dated February 16, 2000 that denies request [to designate combined office and storage [Limited Commercial Use space as one [commercial space; denies request that the [apartment area be 375 s.f.; denies request [that the stable/carriage house footprint be [reduced to its original dimensions of [approximately 20 x 25 feet; and denies [request that the stable/carriage house be [used as a workshop.
[PUBLIC HEARING CLOSED AFTER [TESTIMONY APRIL 12, 2000.
[FOR FURTHER CONSIDERATION [TODAY.

(15) **APPEAL NO. V00-168**

RAYMOND WONG, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Protesting granting on September 27, 2000, [to David Baker and Jane Martin, Rear Yard [Variance to demolish the existing enclosed [work yard that occupies the rearmost 54 feet [of the property, and to construct a new [three-story structure as an addition to the [existing dwelling unit.
[VARIANCE CASE NO. 2000.662V.
[FOR HEARING TODAY.

(16) **Proposed Annual Department Budget for Fiscal Year 2001 - 2002.** For public hearing, consideration and adoption.

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

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3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Linda D. Avery, Acting Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, FEBRUARY 7, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioners Carole Cullum, Allam El Qadah and John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator (ZA); Rafael Torres-Gil, Senior Building Inspector, Department of Building Inspection (SBI, DBI); and Robert Feldman, Executive Secretary for the Board.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: 1. John Sanger attorney for the appellant in two appeals scheduled for February 21, 2001 Appeals 00-198 and 00-199 for the properties at 1701 and 696 Pennsylvania Avenue requested the Board to dismiss both appeals as they have done in a similar case. President Chin asked staff to schedule the two appeals early on that calendar and waived the requestor's attendance at the hearing since he said he was unable to attend that night. **2.** Jim Reid reported to the Board he intended to appeal the closing of the Grocery Outlet which served the people of the City, especially low income families. He wants to save the store and has collected 500 signatures on his petition.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKER: President Chin welcomed the executive secretary back from his medical leave and thanked Linda Avery for her efforts filling in during the absence of the executive secretary.

(3) **REQUEST FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:** 194 Park Street. Letter from Johanna J. Coble, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/07/1278 issued to the San Francisco Fire Department for providing disabled access at first floor, 320 square foot addition to the second floor incorporating toilet/shower/locker facilities within the dormitory, upgrade mechanical and electrical systems, perform hazardous material abatement, rearrange slide pole location, provide miscellaneous repairs, and upgrade finishes throughout.

Date issued	December 21, 2000
Last day to appeal	January 5, 2001
Request for jurisdiction	January 26, 2001

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 4-0 (Commissioner McInerney absent) to **DENY** the request for jurisdiction.

SPEAKERS: **1.** Julian Lastowski, attorney for Johanna Coble requested the Board to allow her to file a late appeal because she had no notice of the issuance of the permit to alter the fire station next door to her house. **2.** Peter Wong for Department of Public Works explained the history of this project. **3.** James Lee of the SFFD explained the need for the alterations to the firehouse. **4.** Johanna Coble said she had no notice of the permit issuance and had spent $7,000 for an engineer to advise her. **5.** Lawrence Badiner (ZA) explained why no notice of issuance was required by Section 311 since it was not for a residential building. **6.** Commissioner Cullum said she hoped the City would work with Ms. Coble on the acoustical issues.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(A) **APPEAL NO. 01-003**

NINA GURALNIK, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[PLUMBING PERMIT NO. P396394.
[FOR HEARING TODAY.

(B) **APPEAL NO. 01-004**

NINA GURALNIK, Appellant
vs.
DEPT. BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[ELECTRICAL PERMIT NO. E211126.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 (Commissioner McInerney absent) to **CONTINUE** the matter to **March 21, 2001** at the request of the appellant with the agreement of Department of Building Inspection.

SPEAKER: Nina Guralnik, appellant requested a continuance of her two appeals to **March 21, 2001**.

(5) **APPEAL NO. 00-226**

ANNIE A. BERTHIAUME, dba "VSF", Appellant
vs.
POLICE DEPARTMENT, Respondent

[278 - 11th Street.
[Revocation of Billiard Parlor permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P12-001055.
[FOR HEARING TODAY.

ACTION: **WITHDRAWN** by appellant prior to hearing.

Commissioner McInerney arrived at 6:40 p.m.

Items (6A) and (6B) were heard together

(6A) **APPEAL NO. 00-232**

ELIZA NGO & KING MA, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[4851 - 4855 Mission Street.
[Protesting issuance on October 30, 2000, to
[Michael O'Mahoney, permit to Demolish a
[Building (commercial).
[APPLICATION NO. 2000/10/17/3191.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 00-243**

ELIZA NGO, KING MA, PHILIP GOMES, DENNIS YUN, CHRIS ENNIS, SHI BANG HUANG, HENRIETTA WILSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[4851 - 4855 Mission Street.
[Protesting issuance on October 30, 2000, to [Michael O'Mahoney, permit to Erect a [Building (six dwelling units over commercial)
[APPLICATION NO. 2000/02/07/1199S.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 5-0 to **UPHOLD** the department and **GRANT** the permits with the following **CONDITIONS** agreed to by the parties in the February 7, 2001 letter; the chain link shall have redwood slats; and subject to access being allowed by appellants.

SPEAKERS: **1.** King Ma, appellant described the drainage problem presented by the proposed construction. **2.** Eliza Ngo, co-appellant, described the concrete slab in the yard which is used by children and her concerns with the height of the proposed building and the agreement offered by the permit holders. **3.** Jack Wholey, attorney for permit holder, explained the project and reiterated the offer made by his client. **Public Comment in support of Appellants:** **3.** Rebecca Silverberg of the district improvement association spoke against the project because of the parking congestion it would cause. **4.** Irene Johnson of 552 London Street, spoke against the project because of parking problems and the view blockage it would cause. **Public Comment in support of project:** **5.** Andy Alfaro said the parking problem was caused by those living in the houses on London Street, while the project met the parking requirements of the Code. **6.** Stephen Taylor said the project was in character with the Excelsior District and attested to the character of the permit holder who helped his neighborhood business over many years. **7.** Christopher Hesse spoke in support of the project. **8.** Edward Jackson lives across the street from the site and said he felt more apartments were a good idea for this neighborhood. **9.** Bill Rodriquez said that this new housing was needed badly and that the project would not cause parking problems. **10.** Joe O'Donoghue said it was ironic that immigrants opposed the project because of density and this site was good for apartments because it is on a transit corridor. **11.** Eamon Murphy, a contractor, said the project was needed. **12.** Rafael Torres-Gil (SBI, DBI) explained how the drainage worked and how the concrete slab could be reduced in size to improve natural drainage. **12.** Lawrence Badiner (ZA) explained how the project met the height requirements of the Code even with the stair penthouse.

The Board recessed from 7:17 to 7:30 p.m.

(7) **APPEAL NO. 00-215**

JOAN COLEMAN SPAARGAREN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[710 - 10th Avenue.
[Determination dated October 20, 2000 that [the work performed on the property July 21, [2000 constituted an unlawful demolition [pursuant to Building Code Section 103.3 [and the permits are hereby revoked.
[APPLICATION NOS. 9905698S1,
[2000/04/07/6740.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 3-2 to overrule the department and reinstate the permits. Four votes are needed and the motion failed. The determination was **UPHELD**.

SPEAKERS: **1.** Rafael Torres-Gil (SBI, DBI) explained the decision being appealled. **2.** John Sanger, attorney for appellant asked the Board to overrule the decision of DBI on the grounds his client had no intent to demolish the building without permit and the penalties were draconian. **Public Comment for Appellant:** **3.** Joe O'Donoghue described the history of the provisions concerning illegal demolitions and asked the Board to overrule since this was not the sort of case meant to be covered. **4.** Alice Barkley explained the history of the legislation. **Public Comment for Department:** **5.** Stephen Williams said the case was clearly an illegal demolition and urged the Board to uphold. He referred the Board to Roberta Caravelli's brief. **6.** Jake McGoldrick said he spoke as a private citizen and not as a Supervisor and that the law was clear and a replacement house meeting the Code would be

profitable. **7.** Hiroshi Fukuda said this was the first time the ordinance was being imposed and that no death penalty was being imposed.

(8) **APPEAL NO. 00-164**

GLENN GEE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1500 Cole Street.
[Protesting issuance on September 19, [2000, to William Wolcott, permit to Alter a [Building (third story vertical addition to [include master bedroom and bathroom with [new stairs to story; add new bathroom to [SW corner at second floor).
[APPLICATION NO. 9915721S.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the department and **GRANT** the permit with the third version of the amended plans.

SPEAKERS: 1. Glenn Gee, appellant, explained his objection to the height of the project which almost makes the house a four-story building out of character with the neighborhood. **2.** William Wolcott, permit holder explained generation of the plans and how they have been revised to protect the neighbors with the third revision showing deletion of the stairwell penthouse.

(9) **APPEAL NO. 00-211**

ELIZABETH HALTON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1120 Kearny Street.
[Protesting issuance on July 28, 2000, (stop [work order issued October 20, 2000) to [Frank Chan, permit to Alter a Building [(seismic upgrade; relocate all kitchens and [bathrooms; install exterior walls and roof [insulation; repair fire damaged unit).
[APPLICATION NO. 2000/07/14/5201.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin and Commissioner McInerney dissented) to overrule the department for lack of proper notice. Four votes are needed and the motion failed. The permit was **UPHELD**.

SPEAKERS: 1. Matthew Hindman, attorney for appellant, said the tenants in the building including his client had not been informed of their right to appeal by the owner and that the Ellis Act notice was being litigated at present. **2.** Elizabeth Colby, attorney for permit holder said the proposed work was to repair fire damage and seismic work. **3.** Rafael Torres-Gil (SBI, DBI) reported on the two citations issued to the owner for failure to comply with earlier notices of violation.

(10) **APPEAL NO. 00-228**

ANA DANIEL, Appellant
vs.
DEPT. OF PUBLIC WORKS, Respondent

[1420 Taylor Street.
[Protesting issuance on October 27, 2000, to [1420 Taylor Street Apartments, permit to [remove and replace two trees.
[ORDER NO. 172,619.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 5-0 to **UPHOLD** the department and **GRANT** the permit.

SPEAKERS: 1. Ana Daniel, appellant said she wanted to save the two trees and showed pictures of mature trees all over the City. **2.** Marc Gille, arborist for owner explained why these two trees should be replaced since they are

now safety hazards. **3.** Paul Sacamano, urban forester for DPW explained how the two trees were a threat to public safety and why DPW has approved the permit to replace them with a suitable species.

(11) **APPEAL NO. V00-213**

MARCO HEITHAUS, JONATHAN BROWNING & TIM HEPWORTH, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[377-379 Collingwood Street.
[Denial of Rear Yard Variance (replace [existing noncomplying rear deck; this [proposal also includes a new roof deck [which is not part of this variance request).
[VARIANCE CASE NO. 2000.129V.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 5-0 to **OVERRULE** the department and **GRANT** the variance with findings as submitted by the appellants.

SPEAKERS: 1. Lawrence Badiner (ZA) explained why it was not appropriate to replace the deck when it can be repaired and that he felt it was a hazard and there is a liability issue. **2.** Rafael Torres-Gil (SBI, DBI) explained Building Code provisions regarding replacement of existing non-complying decks and advised the Board as to the provisions regarding deck replacement. **3.** Jonathan Browning, co-appellant explained the dilapidation of the deck and how parts have been failing off, endangering those below and the occupants of the house.

There was no public comment.

(12) **APPEAL NO. 00-231**

BRYANT SPRINGS LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[840 Bryant Street.
[Zoning Administrator determination dated [October 30, 2000 that Cal Trans legally [occupied approximately 13,900 s.f. of the [premises as "pre-existing office space" for at [least six years prior to the building's current [vacancy and that the remaining 8,240 s.f. of [unoccupied space is considered to be an ["industrial" use because Cal Trans did not [occupy it for a five-year period in order to [convert the space to an office use; and that [the project sponsor must apply for office [development authorization pursuant to [Planning Code Sections 321 and 323 to [create 33,174 s.f. of office space.
[FOR HEARING TODAY.

ACTION: WITHDRAWN by appellant prior to hearing.

(13) **APPEAL NO. 00-234**

ROBERT & HARUMI TAI, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[5 Freelon Street.
[Zoning Administrator determination dated [November 7, 2000, that no evidence has [been established that demonstrates an [official change in use of the subject property [from "industrial" to "office" as a principal use; [and any current or future attempt to occupy [the subject property as "office" use would be [considered a violation of the Planning [Code.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **CONTINUE** the matter to **February 28, 2001** for site visit by Commissioner El Qadah.

(14) **APPEAL NO. 00-032**

DAVID BAKER & JANE MARTIN, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Determination by the Zoning Administrator [dated February 16, 2000 that denies request [to designate combined office and storage [Limited Commercial Use space as one [commercial space; denies request that the [apartment area be 375 s.f.; denies request [that the stable/carriage house footprint be [reduced to its original dimensions of [approximately 20 x 25 feet; and denies [request that the stable/carriage house be [used as a workshop.
[PUBLIC HEARING CLOSED AFTER [TESTIMONY APRIL 12, 2000.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: **WITHDRAWN** by appellants at hearing after agreement with the Zoning Administrator.

SPEAKERS: **1.** Lawrence Badiner (ZA) said he had withdrawn some of the denials and that once the variance was approved 99% would be approved by him. **2.** Jane Martin, co-appellant, said she therefore withdraws the appeal.

(15) **APPEAL NO. V00-168**

RAYMOND WONG, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[337-339 Shotwell Street.
[Protesting granting on September 27, 2000, [to David Baker and Jane Martin, Rear Yard [Variance to demolish the existing enclosed [work yard that occupies the rearmost 54 feet [of the property, and to construct a new [three-story structure as an addition to the [existing dwelling unit.
[VARIANCE CASE NO. 2000.662V.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 4-0 (President Chin recused) to **UPHOLD** the Zoning Administrator and **GRANT** the variance.

SPEAKERS: **1.** Alice Barkley, attorney for appellant, explained why the proposed building would interfere with her client's proposed new construction next door and urged the Board to deny the variance application. **2.** Lawrence Badiner (ZA), explained why he granted the variance and how it met the five requirements for granting a variance. **Public Comment in support of variance holders and Zoning Administrator:** **3.** Anthony Way said he supported the variance since the appellants intended to live in the house and the five requirements were met. **4.** Jose Partida of 316 Shotwell, said he had no objection to the project. **5.** Joe O'Donoghue spoke in support of the project for which the variance would be a favorable precedent. **6.** David Cincotta said he has known the variance holders a long time and that they will create a high quality building.

(16) **Proposed Annual Department Budget for Fiscal Year 2001 - 2002.** For public hearing, consideration and adoption.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 5-0 to **ADOPT** the budget as amended that includes funding for a part-time Assistant Executive Secretary.

SPEAKERS: 1. Linda Avery, acting executive secretary of the Board presented the staff's proposed budget for FY 2001-2002. **Public Comment in favor of proposed budget: 2.** Alice Barkley spoke in support of increases in the proposed budget and said she thought they were long overdue and that the space allotted the staff was impossible to work in and the staff positions should be upgraded. **3.** David Cincotta said he supported all that Ms. Barkley had said, and to provide an assistant to the executive secretary would be an excellent idea.

There being no further business, President Chin adjourned the meeting at 10:18 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, FEBRUARY 21, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **REQUEST FOR REHEARING:** 653 Irving Street. Letter from Mya Hom Short, appellant requesting rehearing of Appeal No. 00-212, heard January 24, 2001. Upon motion by Commissioner Cullum, the Board voted 3-1 (Commissioner McInerney dissented, President Chin absent) to overrule the department and grant the permit with the condition that the replacement tree is of a more suitable species. Four votes being necessary to overrule a department, the motion **FAILED** and the subject denial was **UPHELD**.

(4) **APPEAL NO. 00-198**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[701 Pennsylvania Avenue.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) [and [233(b) dated October 13, 2000 property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-199**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[696 Pennsylvania Avenue.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) and [233(b) dated October 13, 2000 (property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

(6) **APPEAL NO. 00-202**

THOMAS & MARTINA MURPHY, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[598 Hampshire Street.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) and [233(b) dated October 13, 2000 (property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

(7) **APPEAL NO. 00-235**

TIMOTHY C. LEE, Appellant
vs.
POLICE DEPARTMENT, Respondent

[Revocation of Driver Public Passenger
[Vehicle permit on November 8, 2000, for
[failure to pay annual license fee.
[PERMIT NO. P44-050737.
[FOR HEARING TODAY.

(8) **APPEAL NO. 00-237**

ROSEMARY & HUGH KLEBAHN AND VIRGINIA & DONALD SMITH, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2411 Broadway Street.
[Protesting issuance on November 8, 2000,
[to Kim Maxwell and Judy Maxwell, permit to
[Alter a Building (add metal trellis at roof
[deck).
[APPLICATION NO. 2000/07/26/6157.
[FOR HEARING TODAY.

Items (9A) and (9B) shall be heard together

(9A) **APPEAL NO. 00-238**

VALBORG C. TIETZ & TORR S. TIETZ, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[663 Chenery Street.
[Protesting issuance on November 9, 2000,
[to Winky Kee Ho Wong, permit to Demolish
[a Building (single family dwelling).
[APPLICATION NO. 2000/03/02/3340.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 00-239**

VALBORG C. TIETZ & TORR S. TIETZ, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[663 Chenery Street.
[Protesting issuance on November 9, 2000,
[to Winky Kee Ho Wong, permit to Erect a
[Building (three dwelling units).
[APPLICATION NO. 2000/03/02/3332.
[FOR HEARING TODAY.

(10) **APPEAL NO. 00-240**

CONNIE CHANNON & PAUL ZINGARO, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[993 Tennessee Street.
[Protesting issuance on November 9, [2000,
[to Bernardo Urquieta, permit to Erect a
[Building (10 live/work units).
[APPLICATION NO. 9826500S.
[FOR HEARING TODAY.

Items (11A) and (11B) shall be heard together

(11A) **APPEAL NO. 00-241**

ESTHER LAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[7-9 McCormick Street.
[Protesting issuance on November 13, 2000,
[to Chris Garlington, permit to Alter a Building
[(new roof; roof deck under 400 s.f.; repair
[dry rot damage at parapets).
[APPLICATION NO. 2000/11/13/5545).
[FOR HEARING TODAY.

(11B) **APPEAL NO. 00-242**

FRANK ACONA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[7-9 McCormick Street.
[Protesting issuance on November 13, 2000, [to Chris Garlington, permit to Alter a Building [(new roof; roof deck under 400 s.f.; repair [dry rot damage at parapets).
[APPLICATION NO. 2000/11/13/5545).
[FOR HEARING TODAY.

(12) **APPEAL NO. 00-244**

JENNIFER WILLMANN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[39 Ellert Street.
[Protesting issuance on November 20, 2000, [to Arnaldo and Elsa Bustamante, permit to [Alter a Building (construct new 770 s.f. two-[story addition at rear with deck above).
[APPLICATION NO. 9809227S.
[FOR HEARING TODAY.

(13) **APPEAL NO. 00-247**

WHITE FAMILY LIVING TRUST, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2086 Revere Avenue.
[Protesting issuance on November 27, 2000, [to James Zheng, permit to Alter a Building [(horizontal addition at rear; remodel existing [ground floor area; relocate existing furnace, [water heater, washer, dryer; lateral force [upgrade of entire building).
[APPLICATION NO. 2000/05/03/8930S.
[FOR HEARING TODAY.

Items (14A) through (14E) shall be heard together

(14A) **APPEAL NO. 01-006**

GREGG WITKOSKI, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[175 Russ Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Demolish a Building (office and warehouse).
[APPLICATION NO. 2000/04/20/7740.
[FOR HEARING TODAY.

(14B) **APPEAL NO. 01-007**

GREGG WITKOSKI, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[175 Russ Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7745S.
[FOR HEARING TODAY.

(14C) **APPEAL NO. 01-008**

GREGG WITKOSKI, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Harriet Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7751S.
[FOR HEARING TODAY.

(14D) **APPEAL NO. 01-023**

COALITION FOR JOBS, ARTS & HOUSING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[175 Russ Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7745S.
[FOR HEARING TODAY.

(14E) **APPEAL NO. 01-024**

COALITION FOR JOBS, ARTS & HOUSING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Harriet Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7751S.
[FOR HEARING TODAY.

Items (15A) through (15F) shall be heard together

(15A) **APPEAL NO. 01-012**

MISSION ANTI-DISPLACEMENT COALITION, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2051 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (20 live/work units).
[APPLICATION NO. 9801586S.
[FOR HEARING TODAY.

(15B) **APPEAL NO. 01-013**

MISSION ANTI-DISPLACEMENT COALITION, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2001 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (22 live/work units).
[APPLICATION NO. 9801587S.
[FOR HEARING TODAY.

(15C) **APPEAL NO. 01-014**

MISSION ANTI-DISPLACEMENT COALITION, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2095 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (22 live/work units).
[APPLICATION NO. 9801588S.
[FOR HEARING TODAY.

(15D) **APPEAL NO. 01-015**

PROJECT ARTAUD, INC., Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2051 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (20 live/work units).
[APPLICATION NO. 9801586S.
[FOR HEARING TODAY.

(15E) **APPEAL NO. 01-016**

PROJECT ARTAUD, INC., Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2001 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (22 live/work units).
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[FOR HEARING TODAY.

(15F) **APPEAL NO. 01-017**

PROJECT ARTAUD, INC., Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2095 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (22 live/work units).
[APPLICATION NO. 9801588S.
[FOR HEARING TODAY.

(16) **APPEAL NO. 00-236**

JULIAN HIRSCH, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[250 Seacliff Avenue.
[Appeal of Zoning Administrator determina-[tion dated November 6, 2000 that the [proposed one-story addition is compatible [with the neighborhood character and scale; [the addition would not cause significant loss [of light, air, view or privacy to adjacent [buildings; the proposed addition would be in [compliance with the Planning Code and the [Residential Design Guidelines; and the [project sponsor would not be required to [apply for a new variance.
[FOR HEARING TODAY.

Date posted: February 15, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. .In t event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at t meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE REGULAR MEETING OF THE

SAN FRANCISCO BOARD OF APPEALS

DOCUMENTS DEPT.

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WEDNESDAY, FEBRUARY 21, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioners Carole Cullum, Allam El Qadah and John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKER: President Chin thanked the staff for its budget presentation to the Mayor's staff which he and Commissioner Cullum attended.

(3) **REQUEST FOR REHEARING:** 653 Irving Street. Letter from Mya Hom Short, appellant requesting rehearing of Appeal No. 00-212, heard January 24, 2001. Upon motion by Commissioner Cullum, the Board voted 3-1 (Commissioner McInerney dissented, President Chin absent) to overrule the department and grant the permit with the condition that the replacement tree is of a more suitable species. Four votes being necessary to overrule a department, the motion **FAILED** and the subject denial was **UPHELD**.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to **GRANT** the request for rehearing, with the rehearing scheduled for **April 11, 2001**.

SPEAKER: Mya Ham Short, requestor, said she is a small property owner trying to comply and asked for a rehearing of her appeal because one commissioner had been absent at the first hearing and she wants a full Board. **No public comment.**

(4) **APPEAL NO. 00-198**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[701 Pennsylvania Avenue.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) [and [233(b) dated October 13, 2000 property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **DISMISS** the case for lack of jurisdiction, and for the appellant to receive a refund of the filing fees.

SPEAKERS: **1.** Larry Badiner, ZA, explained how he was changing the language on the Notices of Violation and would not object to the Board dismissing the appeals. **2.** Susanne Beilicke, attorney for the appellants, requested that the Board dismiss the appeals and direct the staff to return the filing fees to the appellants.

(5) **APPEAL NO. 00-199**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[696 Pennsylvania Avenue.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) and [233(b) dated October 13, 2000 (property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **DISMISS** the case for lack of jurisdiction, and for the appellant to receive a refund of the filing fees.

SPEAKERS: Same as Item 4.

(6) **APPEAL NO. 00-202**

THOMAS & MARTINA MURPHY, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[598 Hampshire Street.
[Appeal of Notice of Alleged Violation of [Planning Code Sections 222, 233(a) and [233(b) dated October 13, 2000 (property [constructed as a live/work project is being [used as office space without benefit of a [building permit authorizing change in use).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **DISMISS** the case for lack of jurisdiction, and for the appellant to receive a refund of the filing fees.

SPEAKERS: Same as Item 4.

(7) **APPEAL NO. 00-235**

TIMOTHY C. LEE, Appellant
vs.
POLICE DEPARTMENT, Respondent

[Revocation of Driver Public Passenger [Vehicle permit on November 8, 2000, for [failure to pay annual license fee.
[PERMIT NO. P44-050737.
[FOR HEARING TODAY.

ACTION: This matter was **WITHDRAWN** prior to hearing.

(8) **APPEAL NO. 00-237**

ROSEMARY & HUGH KLEBAHN AND VIRGINIA & DONALD SMITH, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2411 Broadway Street.
[Protesting issuance on November 8, 2000, [to Kim Maxwell and Judy Maxwell, permit to [Alter a Building (add metal trellis at roof [deck).
[APPLICATION NO. 2000/07/26/6157.
[FOR HEARING TODAY.

ACTION: This matter was **WITHDRAWN** prior to hearing.

Items (9A) and (9B) were heard together

(9A) **APPEAL NO. 00-238**

VALBORG C. TIETZ & TORR S. TIETZ, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[663 Chenery Street.
[Protesting issuance on November 9, 2000, [to Winky Kee Ho Wong, permit to Demolish [a Building (single family dwelling).
[APPLICATION NO. 2000/03/02/3340.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 00-239**

VALBORG C. TIETZ & TORR S. TIETZ, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[663 Chenery Street.
[Protesting issuance on November 9, 2000, [to Winky Kee Ho Wong, permit to Erect a [Building (three dwelling units).
[APPLICATION NO. 2000/03/02/3332.
[FOR HEARING TODAY.

ACTION: Both matters were **RESCHEDULED** to **April 11, 2001** prior to hearing.

(10) **APPEAL NO. 00-240**

CONNIE CHANNON & PAUL ZINGARO, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[993 Tennessee Street.
[Protesting issuance on November 9, [2000, [to Bernardo Urquieta, permit to Erect a [Building (10 live/work units).
[APPLICATION NO. 9826500S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 to **UPHOLD** the subject site permit with **FINDINGS** that were read into the record by said commissioner.

SPEAKERS: **1.** Stephen Williams, attorney for the appellants, said it was never too late to do the right thing and to obey the law, and that the matter is being litigated in Superior Court. He said this was not a matter of collateral estoppel. He said the Board must follow the Planning Commission guidelines and he was exhausting his administrative remedy with this appeal. **2.** Paul Zingaro, co-appellant, said this project was a perfect example of excess allowed by the live/work ordinance and that the project is out of scale with the whole neighborhood with its height of 50 feet. **3.** Judith Boyajian, DCA, said that she concurred with Mr. Williams that the interim controls and guidelines are the law and that the Board should apply them. **4.** Alice Barkley, attorney for the permit holder, said the design was approved by the Board last June at the hearing of the appeal of the denial by Planning filed by the permit holder and that the present plans are identical to those approved by the Board last June with a quorum of the Board sitting and the vote was 4-0-1 (Commissioner Cullum was absent) to overrule the Planning Commission and grant the permit. **5.** Larry Badiner, ZA, said that the Planning Commission had not asked him to file for a rehearing last June and that he hadn't. **Public Comment for the Appellants:** **6.** Sue Hestor submitted to the Board copies of the moratorium and resolution of the Board of Supervisors on live/work units and said the

appellants asked only for a small reduction of the height of the building. **7.** L. Joseph Boss said the project is next to a historical duplex and had been designed by a good architect but that the height should be reduced. **8.** Gary Moody said the public wants to change the procedure and that no one wants a scam. He wants the Board to consider its future. **Public Comment in Support of the Permit Holder: 9.** Joe O'Donoghue said his group had not exhausted its remedies regarding the Board of Supervisor's action, and that they had violated the California Environmental Quality Act (CEQA) rules with no proper notice of their action.

(11A) **APPEAL NO. 00-241**

ESTHER LAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[7-9 McCormick Street.
[Protesting issuance on November 13, 2000,
[to Chris Garlington, permit to Alter a Building
[(new roof; roof deck under 400 s.f.; repair
[dry rot damage at parapets).
[APPLICATION NO. 2000/11/13/5545).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney abstained) to RECUSE Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney recused) to **UPHOLD** the subject permit with the **CONDITIONS** as stated in the written agreement between the principals.

SPEAKERS: 1. Richard Jeung, attorney for the appellant, showed photos of the roof deck project and said the work so far exceeds the approved plans and that the permit holders should apply for a permit for a vertical extension. **2.** Chris Garlington, permit holder, said this was a case of "you can't have what I have" and he also responded to the four issues in the appellant's statement. **3.** Larry Badiner, ZA, said the project is about a proposed roof deck and his interpretation is that a non-complying structure's railing may be no higher than that allowed by the Building Code and the railing appeared to be too high, and maybe the work is beyond the scope of the approved plans. **4.** Laurence Kornfield, CBI, DBI, reviewed the deck and railing provisions of the Building Code. **Pubic Comment for the Appellant:** None. **Public Comment for the Permit Holder: 5.** Robert Shrieve said the project is not intrusive and will not cause great harm to anyone.

(11B) **APPEAL NO. 00-242**

FRANK ACONA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[7-9 McCormick Street.
[Protesting issuance on November 13, 2000,
[to Chris Garlington, permit to Alter a Building
[(new roof; roof deck under 400 s.f.; repair
[dry rot damage at parapets).
[APPLICATION NO. 2000/11/13/5545).
[FOR HEARING TODAY.

ACTION: This matter was **WITHDRAWN** prior to hearing.

(12) **APPEAL NO. 00-244**

JENNIFER WILLMANN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[39 Ellert Street.
[Protesting issuance on November 20, 2000,
[to Arnaldo and Elsa Bustamante, permit to
[Alter a Building (construct new 770 s.f. two-
[story addition at rear with deck above).
[APPLICATION NO. 9809227S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-1 (Commissioner McInerney dissented) to **UPHOLD** the subject permit on **CONDITION** that landscaping be installed and maintained around the edge of the subject roof deck, to be designed in consultation with the appellant, with discrepancies to be arbitrated by

Mauricio Vela of the Bernal Heights Neighborhood Center, and on further **CONDITION** that the permit holder transmit the required documents, reports and the survey to the appellant.

SPEAKERS: 1. Jennifer Willman, appellant, said she opposed the project because it replaces one that was built without a permit, torn down, and is now being replaced, making the house, already the largest on the house, even more out of scale with the neighbors and blocking light and air on the south side. She is concerned with the foundation especially. **2.** Jennifer Torbohn, attorney for permit holder, said her client would transmit the documents requested to the appellant and described the concessions already made by her client for the neighbors, the addition being reduced from three stories to two. **3.** Arnie Bustamanete, permit holder, described revisions to plans negotiated with Planning to benefit neighbors and he said that his family has had no kitchen for three years and he needs the addition because he has four daughters. **4.** Laurence Kornfield, CBI, DBI, explained that the Code limits on working hours and noise, as well as procedures to insure proper foundations. **Public Comment for the Appellant: 5.** Julieta Ozan read three letters of opposition from neighbors who could not attend the hearing. **6.** Robert Adler, a concerned neighbor, said he had no notice of the project because it was an over-the-counter permit and plans sat at Planning for two years, and that he did not delay the project. **Public Comment for the Permit Holder: 7.** Mauricio Vela said he lives next door on the east side since 1989, and his rear windows face the house. The sun sets to the west so there is no problem with light to appellant. He said there is lots of public support for the addition.

(13) **APPEAL NO. 00-247**

WHITE FAMILY LIVING TRUST, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2086 Revere Avenue.
[Protesting issuance on November 27, 2000,
[to James Zheng, permit to Alter a Building
[(horizontal addition at rear; remodel existing
[ground floor area; relocate existing furnace,
[water heater, washer, dryer; lateral force
[upgrade of entire building).
[APPLICATION NO. 2000/05/03/8930S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit.

SPEAKERS: 1. Gladys White, agent for appellant, explained her objections to the proposed addition which will block her view and reduce the value of her property. **2.** Jerry Klein, agent for the permit holder, said a rear extension was common in the City and that the sunlight coming from the south will not be affected by the addition which is needed for his client's large family and that his client does not speak English well which prevented him from reaching out to neighbors. **3.** Larry Badiner, ZA, said he felt that the lower level of the addition does not lend itself to conversion to an illegal unit and that he does not recommend a Notice of Special Restrictions in this case. **Public Comment:** None for either side.

Items (14A) through (14E) were heard together

(14A) **APPEAL NO. 01-006**

GREGG WITKOSKI, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[175 Russ Street.
[Protesting issuance on January 12, 2001, to
[175 Russ Street Assoc. LLC, permit to
[Demolish a Building (office and warehouse).
[APPLICATION NO. 2000/04/20/7740.
[FOR HEARING TODAY.

(14B) **APPEAL NO. 01-007**

GREGG WITKOSKI, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[175 Russ Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7745S.
[FOR HEARING TODAY.

(14C) **APPEAL NO. 01-008**

GREGG WITKOSKI, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Harriet Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7751S.
[FOR HEARING TODAY.

(14D) **APPEAL NO. 01-023**

COALITION FOR JOBS, ARTS & HOUSING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[175 Russ Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7745S.
[FOR HEARING TODAY.

(14E) **APPEAL NO. 01-024**

COALITION FOR JOBS, ARTS & HOUSING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Harriet Street.
[Protesting issuance on January 12, 2001, to [175 Russ Street Assoc. LLC, permit to [Erect a Building (16 live/work units).
[APPLICATION NO. 2000/04/20/7751S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **UPHOLD** the three subject permits with **PROP M FINDINGS** that were incorporated by reference and other **FINDINGS** that were read into the record.

SPEAKERS: 1. Sue Hestor, attorney for the Coalition for Jobs, Arts & Housing, said the Board could take judicial notice of the new controls adopted by the Board of Supervisors which will go into affect in a few days whether it is signed by the Mayor or not. She said it was adopted because developers would not compromise with the community about live/work loft units. She said the Board should continue these cases because the other appellant, Mr. Witkoski, had to leave the meeting because of a sick child. **2.** Alice Barkley, attorney for the permit holder, said her clients are a small business trying to keep their T-shirt business alive by building these two buildings. She said the shadowing of schoolyard issue had been resolved and she also explained Prop K provisions and history. **3.** Pat McCune, co-permit holder, and a partner in Graphic Sportswear said the Commission had approved their plans unanimously. **Public Comment for the Permit Holders: 4.** Joe O'Donoghue said he met the permit holders at the Commission meeting and they should be supported to keep their local business going. **Public Comment for the Appellants: 5.** Gary Moody said Ms. Barkley and Mr. O'Donoghue were telling big lies as to developers paying school fees for these projects. **6.** Daniela Kirshenbaum said there was no reason to approve any more live/work units and that other projects could be built on this site. **7.** Nada Savic said the project will make her open space for her building adjacent non-compliant and she will be in the bottom of a well.

Items (15A) through (15F) were heard together

(15A) **APPEAL NO. 01-012**

MISSION ANTI-DISPLACEMENT COALITION, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2051 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (20 live/work units).
[APPLICATION NO. 9801586S.
[FOR HEARING TODAY.

(15B) **APPEAL NO. 01-013**

MISSION ANTI-DISPLACEMENT COALITION, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2001 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (22 live/work units).
[APPLICATION NO. 9801587S.
[FOR HEARING TODAY.

(15C) **APPEAL NO. 01-014**

MISSION ANTI-DISPLACEMENT COALITION, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2095 Harrison Street.
[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (22 live/work units).
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(15D) **APPEAL NO. 01-015**

PROJECT ARTAUD, INC., Appellant
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DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

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[Protesting issuance on January 4, 2001, to [Harrison Development LLC, permit to Erect [a Building (20 live/work units).
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(15E) **APPEAL NO. 01-016**

PROJECT ARTAUD, INC., Appellant
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PLANNING DEPARTMENT APPROVAL

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PROJECT ARTAUD, INC., Appellant
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[APPLICATION NO. 9801588S.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 4-0-1 (Commissioner McInerney abstained) to **RECUSE** Commissioner McInerney. Afterwards, upon motion by Vice President Saunders, the Board voted 3-1-0 (Commissioner Cullum dissented, and Commissioner McInerney recused) to **UPHOLD** all three subject permits, with **FINDINGS** that were read into the record by President Chin.

SPEAKERS: 1. Sue Hestor, attorney for the Mission Anti-Displacement Coalition (MAC), said that these hearings had been accelerated and she asked for a continuance. She said the NMIPZ regulations prohibit housing projects over ten units and that the earlier Imbelloni projects shade the block and that Project Artaud is the only

real artist live/work building in the City, and that this site is not appropriate for the proposed buildings. **2.** Patrick Goggin, attorney for Project Artaud, said the site had toxic serpentine soil which needed soil analysis so it could be shipped to a proper dump site, as required under the California Environmental Quality Act (CEQA). **3.** Alice Barkley, attorney for the permit holder, said the units would not be sold to a dot.com company and that the Board had sound discretion to approve the project. She said mitigations in the Negative Declaration are identical with those in an Environmental Impact Report (EIR), and would be monitored closely by the Department of Public Works (DPW), including a Health Safety Plan by the developer and approved by DPW. **Public Comment for the Permit Holder: 4.** Joe O'Donoghue said he appealed for community involvement since before 1978 and it is why we now have a housing crisis. Community involvement is a disaster. Here the developers are from the Mission District unlike Sue Hestor and Patrick Goggin. His group could build affordable housing f allowed to. **No Public Comment for Appellants.**

(16) **APPEAL NO. 00-236**

JULIAN HIRSCH, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[250 Seacliff Avenue.
[Appeal of Zoning Administrator determina-
[tion dated November 6, 2000 that the
[proposed one-story addition is compatible
[with the neighborhood character and scale;
[the addition would not cause significant loss
[of light, air, view or privacy to adjacent
[buildings; the proposed addition would be in
[compliance with the Planning Code and the
[Residential Design Guidelines; and the
[project sponsor would not be required to
[apply for a new variance.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 2-3 (President Chin, Commissioner McInerny and Commissioner El Qadah dissented) to overrule the subject determination. Four votes being necessary to overrule a Zoning Administrator determination, the **MOTION FAILED**, and the subject determination was **UPHELD**.

SPEAKERS: 1. Larry Badiner, ZA, gave the history of the variance decision approved by Robert Passmore and why he had determined that a new variance was not necessary for the proposed alterations under the conditions set forth in the variance. The Planning Commission last week held a Discretionary Review of the project and approved it without saying a new variance should be required, but did request that the trees be trimmed to increase views of the sea between the houses. The plans have been revised to drop the height of the house by changing from a sloped to a flat roof. **2.** Sue Hestor, attorney for appellant, said the trees are out of control and that they will be trimmed, and she felt denying the need for a new variance reduces the opportunity for negotiating a compromise agreement between the parties. The Seacliff subdivision had provisions to protect views. She said that the ZA did not have a copy of the variance when he made this determination and that this was an ex post facto screw up. She said the ZA had abused his discretion. She said it was insanity to abandon the condition requiring a new variance for alterations that significantly affect neighbors. **Public Comment for the ZA: 3.** Alice Barkley, attorney for the determination holder, said that compromise had already been made and that a DR request had been withdrawn. And she explained that the second part of the variance condition which she said allows for this determination. **Public Comment for the Appellant: 4.** Byron Lippman of 255 Sea Cliff Avenue said he was at the DR hearing and he is against the project. He and others will lose views between the houses since the project will fill in open space. **5.** Terrance Marseille said he lived across the street and said that he was told at the variance hearing there would be no building over the garage. He said the Master Plan protects these kinds of views.

There being no further business, President Chin adjourned the meeting at 11:20 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

Board of Appeals

Febuary 28, 2001

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, FEBRUARY 28, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

(1)**PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2)**COMMISSIONERS COMMENTS AND QUESTIONS.**

(3)**APPEAL NO. 00-227**

NOEL A. GARAY, Appellant	[Revocation of Tow Car Operator permit on [October 27, 2000, for failure to pay license [fee.
vs.	
POLICE DEPARTMENT, Respondent	[PERMIT NO. P43-001155.
	[FOR HEARING TODAY.

(4)**APPEAL NO. 00-181**

ELIZABETH JAMERSON, Appellant	[1592-1594 Golden Gate Avenue.
vs.	[Determination dated September 27, 2000 [by the Zoning Administrator that after review [of the request submitted by the Neighbors of [the New Laguna Market and departmental [records, there is sufficient evidence to [constitute
ZONING ADMINISTRATOR, Respondent	

clear intent on the part of the [owner to abandon the Limited Commercial [Use for the subject property.

[FOR HEARING TODAY.

(5)**APPEAL NO. 00-234**

ROBERT & HARUMI TAI, Appellants

vs.

ZONING ADMINISTRATOR, Respondent

[5 Freelon Street.

[Zoning Administrator determination dated [November 7, 2000, that no evidence has [been established that demonstrates an [official change in use of the subject property [from "industrial" to "office" as a principal use; [and any current or future attempt to occupy [the subject property as "office" use would be [considered a violation of the Planning [Code.

[FOR HEARING TODAY.

(6)**APPEAL NO. 00-254**

JEFFREY HEUER, Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

[1409 Noe Street.

[Appeal of Notice of Restriction dated [December 4, 2000 by the Director of the [Department of Building Inspection [prohibiting construction or alteration of any [building or structure except for construction [or alteration of a building or structure with [one residential unit consisting of 1,570 or [fewer square feet until August 14, 2005 [(penalty for unlawful demolition on August [15, 2000).

[FOR HEARING TODAY.

(7)**APPEAL NO. 00-253**

NIKOLAJS A. LAPINS, Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING DEPARTMENT APPROVAL

[1 Belgrave Avenue.

[Protesting issuance on December 9, 2000, [to Allan and Marrian Byer, permit to Alter a [Building (replace existing exterior wood [steps as original except for one hour fire-[rated wall; replace lower ground level deck [as original; one hour fire-rated wall at [existing upper deck).

[APPLICATION NO.
2000/12/04/7098.

[FOR HEARING TODAY.

Date posted: February 22, 2001

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MINUTES OF THE

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, FEBRUARY 28, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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PRESENT: President Arnold Chin, Commissioners Carole Cullum, Allam El Qadah, and John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary.

ABSENT: Vice President Sabrina Saunders.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: President Chin requested that the staff schedule for the March 21, 2001 meeting an amendment to the Board's Rules for public hearing, consideration and adoption to allow the President to appoint an acting vice president for the period the vice president is incapacitated and absent and unable to perform the duties of the office.

Commissioner McInerney said he was in agreement with this request.

(3) **APPEAL NO. 00-227**

NOEL A. GARAY, Appellant
vs.
POLICE DEPARTMENT, Respondent

[Revocation of Tow Car Operator permit on
[October 27, 2000, for failure to pay license
[fee.
[PERMIT NO. P43-001155.
[FOR HEARING TODAY.

ACTION: **WITHDRAWN** prior to hearing.

(4) **APPEAL NO. 00-181**

ELIZABETH JAMERSON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1592-1594 Golden Gate Avenue.
[Determination dated September 27, 2000
[by the Zoning Administrator that after review
[of the request submitted by the Neighbors of
[the New Laguna Market and departmental
[records, there is sufficient evidence to
[constitute clear intent on the part of the
[owner to abandon the Limited Commercial
[Use for the subject property.
[FOR HEARING TODAY.

The Court reporter swore in those who missed the initial swearing in at the beginning of the meeting.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 2-2 (President Chin and Commissioner El Qadah dissented) to **UPHOLD** the Zoning Administrator. Four votes are needed to overrule and the determination is UPHELD.

SPEAKERS: **1.** Lawrence Badiner (ZA), explained his determination and the Code provisions concerning non-conforming uses, limited commercial uses, the zoning of the property, and the abandonment provisions and the evidence he based his determination on. **2.** William Balin, attorney for appellant, cited a recent court decision which said an ABC license issued prior to a change in zoning remained in effect in spite of the zoning regulations; and that the case supported a Board decision in favor of his client. He refuted arguments of the ZA and described the history of the litigation between his client and the City. **3.** President Chin said that rumors that he had a financial interest in the property were untrue and he had none. **Public Comment in support of ZA: 4.** Winston Montgomery apologized to President Chin for the unfounded rumor that was going around the neighborhood. He then described the criminal activities he associated with the subject store. **5.** Captain James Dudley of the SFPD said he had Chief Lau's support in opposing alcoholic beverage sales at this address. **6.** Debra Kessler asked for a show of hands in the audience of those in support of the ZA. Fifteen to twenty went up. She explained the history of the property before the Board. She said the store has been locked and vacant for six years. **7.** Robert Moxley described the evidence of abandonment of this use and the permit history for it. **8.** Josephine Leggett, a photographer showed pictures of the property to prove its dilapidation and the presence of scaffolding around it for many months which blocked the sidewalk and added the property is a magnet for garbage. **9.** Ken Niger said he goes by the property every day and asked why can't the owners clean up the mess there. **10.** Scott Perkins said he lives to the north across Elm Street on the top floor and can see stray cats on top of the garage, the only activity he observed on the property, with nothing done to the property for the past 19 months. **11.** Savannah Tomms said she has lived in the area since the 1970's and remembers when Elizabeth Jamerson ran it. She said it had a limited stock and was good for milk and bread. She described the high crime rate there and said the appellant had been forced to paint the building. **12.** Brian Dickey said he has lived a block east on Golden Gate Avenue for the last nine years. He felt the store would cause double parking on Golden Gate and Scott Street which would be hazardous especially with the extreme grade down Golden Gate. He said the Western Addition needs care and attention. **13.** Nonnie Richards said she passes the site several times a day and nothing was done to the property until recently, just a quickie paint job. **14.** Gordon Husty said he is a land use expert and a neighbor and that a liquor/beer store would not be the highest and best use of the property. He said a nearby property with a small two-unit residential building recently sold for $1.4 million and this property should be a two-unit also although it has more square footage than the nearby one. **15.** Alice Lane, conservator of the appellant, in rebuttal, argued that the NCU store has not been abandoned and that the neighbors were responsible for the garbage that accumulates on the site and put the graffiti there, too. She said she could not get loans to repair the property because she is black. **16.** Rafael Torres-Gil, senior building inspector, described the scaffolding regulations enforced by DPW and said they were a temporary use during construction. **There was no public comment in support of the appellant.**

(5) **APPEAL NO. 00-234**

ROBERT & HARUMI TAI, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[5 Freelon Street.
[Zoning Administrator determination dated [November 7, 2000, that no evidence has [been established that demonstrates an [official change in use of the subject property [from "industrial" to "office" as a principal use; [and any current or future attempt to occupy [the subject property as "office" use would be [considered a violation of the Planning [Code.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to **RESCHEDULE** the matter to **May 2, 2001** at the written request of Alice Barkley, attorney for appellants.

(6) **APPEAL NO. 00-254**

JEFFREY HEUER, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1409 Noe Street.
[Appeal of Notice of Restriction dated [December 4, 2000 by the Director of the [Department of Building Inspection [prohibiting construction or alteration of any [building or structure except for construction [or alteration of a building or structure with [one residential unit consisting of 1,570 or [fewer square feet until August 14, 2005 [(penalty for unlawful demolition on August [15, 2000).
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 4-0 to OVERRULE the department and the penalties imposed on the appellant by DBI.

SPEAKERS: 1. Laurence Kornfield (CBI, DBI), explained the unlawful demolition provisions of the Building Code Section 103.3 and how the present case was deemed to fall under them. **2.** Jeremy Paul, consultant to the appellant, explained how the appellant had followed the approved plans exactly under the eye of the district inspector who did not alert him to the possibility of the project being deemed an unlawful demolition and how the department was now training their field inspectors how to give notice of the Code provisions to contractors before they reach a stage of an alteration that may be called an unlawful demolition without a demolition permit being obtained in addition to the already approved alteration permits. He showed how the department had given the appellant discretion to retain or replace elements of the job as his judgment directed, with the job card signed off by the inspector to the day before the project was deemed an unlawful demolition. He described the new guidelines developed by the department for the inspectors to guide them in dealing with the problems of enforcement of the Code provisions which are not clear and thorough. **Public Comment for Appellant: 3.** Don Pardol, lives next door and said the appellant is making a contribution to the neighborhood and the work so far was excellent. **4.** Alan Louie from across the street said he supported the appellant because the design of the project fits the neighborhood character and it is the same size as the building next door, unlike those developers who try to max-out the envelope on a site; like the monster house nearby. Here the infraction is only a technical violation. **No Public Comment for the Department.**

(7) **APPEAL NO. 00-253**

NIKOLAJS A. LAPINS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1 Belgrave Avenue.
[Protesting issuance on December 9, 2000, [to Allan and Marrian Byer, permit to Alter a [Building (replace existing exterior wood [steps as original except for one hour fire-[rated wall; replace lower ground level deck [as original; one hour fire-rated wall at [existing upper deck).
[APPLICATION NO. 2000/12/04/7098.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 4-0 to OVERRULE the department and DENY the permit.

SPEAKER: Denise Schrivner, representative for appellant, said the permit holder was not in the audience. **No Public Comment for appellant or for permit holder**.

There being no further business, President Chin adjourned the meeting at 7:55 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained directly from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MARCH 7, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUEST FOR REHEARING:

ITEM A: 710 – 10th Avenue. Letter from John M. Sanger, attorney for Joan Coleman Spaargaren, requesting rehearing of Appeal No. 00-215 heard on February 7, 2001. After discussion, upon motion by Commissioner McInerney, the Board voted 3-2 (President Chin and Commissioner Cullum dissented) to overrule the unlawful demolition determination. Four votes are needed to overrule a department and the determination was **UPHELD**.

ADOPTION OF FINDINGS:

ITEM B: 1247 Florida Street. Appeal No. V00-130, heard October 4, 2000. Upon motion by Commissioner Cullum, the Board voted 4-0 (Commissioner El Qadah absent) to **OVERRULE** the Zoning Administrator and **GRANT** the front setback variance to allow a new porch and stairs to extend further into the front setback than the existing porch. The Board directed the appellant to submit findings for adoption at a later date.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(A) **APPEAL NO. 01-026**

STUART L. FUSS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[457 Oak Street.
[Appeal for Refund of Penalty imposed on
[February 2, 2001.
[APPLICATION NO. 2001/01/17/9996.
[FOR HEARING TODAY.

(B) **APPEAL NO. 01-027**

STUART L. FUSS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[457 Oak Street.
[Appeal for Refund of Penalty imposed on
[February 2, 2001.
[APPLICATION NO. 2001/01/17/0004.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-073**

DONALD W. McNABB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1785 Bancroft Avenue.
[Denial on April 28, 2000, of permit to Alter a [Building (conversion of existing warehouse/ [storage facility into a hot tub/spa estab- [lishment).
[APPLICATION NO. 9917785.
[FOR HEARING TODAY.

(6) **APPEAL NO. 00-196**

DARRELL & LILIA SPENCER, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[240 Mangels Avenue.
[Protesting issuance on October 10, 2000, to [Edward Lam, permit to Demolish a Building [(parking garage).
[APPLICATION NO. 9918270.
[FOR HEARING TODAY.

(7) **APPEAL NO. 00-256**

JUDY WEST, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1320 Bryant Street.
[Protesting issuance on December 9, 2000, [to Allan and Marrian Byer, permit to Erect a [Building for wholesale, light manufacturing [use.
[APPLICATION NO. 2000/06/13/2484S.
[FOR HEARING TODAY.

(8) **APPEAL NO. 00-257**

THOMAS MALATESTA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[400 Page Street.
[Protesting issuance on December 9, 2000, [to Frank Lembi, permit to Alter a Building [(roof deck addition).
[APPLICATION NO. 2000/09/05/9671.
[FOR HEARING TODAY.

Items (9A) through (9D) shall be heard together

(9A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Demolish [a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Erect a [Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(9C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Demolish [a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(9D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(10) **APPEAL NO. 00-262**

RUSSELL J. SAVAGE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[4333 – 17th Avenue.
[Protesting issuance on December 14, 2000,
[to Nancy Eng, permit to Alter a Building
[(horizontal and vertical additions).
[APPLICATION NO. 2000/08/11/7710S.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR WONG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000,
[to K.M. Lo, permit to Erect a Building (six
[unit apartment building).
[APPLICATION NO. 9804165S.
[FOR HEARING TODAY.

(12) **APPEAL NO. 00-194**

INASSOCIATION, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[Zoning Administrator determination dated
[October 5, 2000 that the proposal to develop
[an online service which would allow people
[with driveways to rent them to people where
[such use does not block sidewalks or violate
[other city laws would not be feasible as it
[would be allowed only under certain
[conditions pursuant to Planning Code
[Sections 150, 155, and 311; and it is
[unusual for a property in San Francisco to
[have a setback large enough to
[accommodate a vehicle that is not in the
[required open area.
[FOR HEARING TODAY.

Date posted: March 1, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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COMMUNICATIONS

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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

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WEDNESDAY, FEBRUARY 28, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **APPEAL NO. 00-227**

NOEL A. GARAY, Appellant
vs.
POLICE DEPARTMENT, Respondent

[Revocation of Tow Car Operator permit on [October 27, 2000, for failure to pay license [fee.
[PERMIT NO. P43-001155.
[FOR HEARING TODAY.

(4) **APPEAL NO. 00-181**

ELIZABETH JAMERSON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1592-1594 Golden Gate Avenue.
[Determination dated September 27, 2000 [by the Zoning Administrator that after review [of the request submitted by the Neighbors of [the New Laguna Market and departmental [records, there is sufficient evidence to [constitute clear intent on the part of the [owner to abandon the Limited Commercial [Use for the subject property.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-234**

ROBERT & HARUMI TAI, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[5 Freelon Street.
[Zoning Administrator determination dated [November 7, 2000, that no evidence has [been established that demonstrates an [official change in use of the subject property [from "industrial" to "office" as a principal use; [and any current or future attempt to occupy [the subject property as "office" use would be [considered a violation of the Planning [Code.
[FOR HEARING TODAY.

6) **APPEAL NO. 00-254**

JEFFREY HEUER, Appellant
vs.
DEPT OF BUILDING INSPECTION, Respondent

[1409 Noe Street.
[Appeal of Notice of Restriction dated [December 4, 2000 by the Director of the [Department of Building Inspection [prohibiting construction or alteration of any [building or structure except for construction [or alteration of a building or structure with [one residential unit consisting of 1,570 or [fewer square feet until August 14, 2005 [(penalty for unlawful demolition on August [15, 2000).
[FOR HEARING TODAY.

(7) **APPEAL NO. 00-253**

NIKOLAJS A. LAPINS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1 Belgrave Avenue.
[Protesting issuance on December 9, 2000, [to Allan and Marrian Byer, permit to Alter a [Building (replace existing exterior wood [steps as original except for one hour fire-[rated wall; replace lower ground level deck [as original; one hour fire-rated wall at [existing upper deck).
[APPLICATION NO. 2000/12/04/7098.
[FOR HEARING TODAY.

Date posted: February 22, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings a reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

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MINUTES OF THE

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MARCH 7, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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PRESENT: President Arnold Chin, Commissioners Carole Cullum, Allam El Qadah, and John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator (ZA); Rafael Torres-Gil, Senior Building Inspector, Department of Building Inspection (SBI, DBI); and Robert Feldman, Executive Secretary.

ABSENT: Vice President Sabrina Saunders.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: None.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUEST FOR REHEARING:

ITEM A: 710 – 10th Avenue. Letter from John M. Sanger, attorney for Joan Coleman Spaargaren, requesting rehearing of Appeal No. 00-215 heard on February 7, 2001. After discussion, upon motion by Commissioner McInerney, the Board voted 3-2 (President Chin and Commissioner Cullum dissented) to overrule the unlawful demolition determination. Four votes are needed to overrule a department and the determination was **UPHELD**.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0 to **CONTINUE** the matter to **May 9, 2001** for a full Board.

SPEAKER: John Sanger, attorney for appellant asked that this request for rehearing be put off until there is a full Board in attendance.

ADOPTION OF FINDINGS:

ITEM B: 1247 Florida Street. Appeal No. V00-130, heard October 4, 2000. Upon motion by Commissioner Cullum, the Board voted 4-0 (Commissioner El Qadah absent) to **OVERRULE** the Zoning Administrator and **GRANT** the front setback variance to allow a new porch and stairs to extend further into the front setback than the existing porch. The Board directed the appellant to submit findings for adoption at a later date.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to **ADOPT** the findings submitted by the appellant.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board proceeded to a vote without testimony to reduce the penalty investigation fees to two times the regular fee as provided for in the Building Code.

(A) **APPEAL NO. 01-026**

STUART L. FUSS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[457 Oak Street.
[Appeal for Refund of Penalty imposed on
[February 2, 2001.
[APPLICATION NO. 2001/01/17/9996.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to **OVERRULE** the department with the **CONDITION** that the penalty be reduced to two times the regular fee of $215.80 for a total of $431.60.

(B) **APPEAL NO. 01-027**

STUART L. FUSS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[457 Oak Street.
[Appeal for Refund of Penalty imposed on
[February 2, 2001.
[APPLICATION NO. 2001/01/17/0004.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to **OVERRULE** the department with the **CONDITION** that the penalty be reduced to two times the regular fee of $297.05 for a total of $594.10.

SPEAKER: Rafafel Torres-Gil (SBI, DBI) said that the penalty matters could be handled expeditiously.

(5) **APPEAL NO. 00-073**

DONALD W. McNABB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1785 Bancroft Avenue.
[Denial on April 28, 2000, of permit to Alter a
[Building (conversion of existing warehouse/
[storage facility into a hot tub/spa estab-
[lishment).
[APPLICATION NO. 9917785.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0 to **CONTINUE** the matter to **May 9, 2001** at the request of the appellant.

(6) **APPEAL NO. 00-196**

DARRELL & LILIA SPENCER, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[240 Mangels Avenue.
[Protesting issuance on October 10, 2000, to
[Edward Lam, permit to Demolish a Building
[(parking garage).
[APPLICATION NO. 9918270.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner McInerney, the Board voted 4-0 to **UPHOLD** the department and **GRANT** the permit with the **CONDITION** that the permit holder agrees to complete the job using the plans drawn by Emmanuel Pun dated February 16, 2001.

SPEAKERS: Darrell Spencer, appellant, introduced John Ganaden, an engineer, to explain the drainage problem. **2.** John Ganaden asked the Board to order an emergency inspection of the subject property to see the violations causing the drainage problem. He said he was a civil engineer in the Philippines. **3.** Edward Lam, permit holder introduced Emmanuel Pun, his engineer to explain the steps his client was taking to end the drainage problem. **4.** Rafael Torres-Gil (SBI, DBI) said he had reviewed the plans of the permit holder and that the steps he has taken are very sophisticated and appear to be an appropriate solution to the drainage problem.

(7) **APPEAL NO. 00-256**

JUDY WEST, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1320 Bryant Street.
[Protesting issuance on December 9, 2000, [to Allan and Marrian Byer, permit to Erect a [Building for wholesale, light manufacturing [use.
[APPLICATION NO. 2000/06/13/2484S.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 4-0 to **UPHOLD** the department and **GRANT** the permit with findings that were read into the record by Commissioner Cullum.

SPEAKERS: 1. Judy West, appellant said she was not asking for the property to be condemned and bought by the City but only that the owner consider swapping the lot for another that meets his needs to allow use of the lot for a bicycle way or a MUNI rail corridor. She asked that the matter be put over to allow time for a review by MUNI. She said there is no lawsuit pending in this case. **2.** Judith Boyajian (DCA) said that the site was in private ownership and the Board could not disapprove the permit because it was too late to take for open space. **3.** Dan Sullivan, representative for the permit holders, said his clients oppose any continuance of the hearing and that the proposed building was necessary for their business and that his client is a public spirited citizen but he has his business to take care of. **Public Comment for Appellant: 4.** Leah Shahum from the bicycle coalition explained the purpose of the grant given to the appellant for studying the issues and explained how many bicycle riding commuters there are in the City. **There was no Public Comment for permit holders.**

The Board recessed from 7:29 to 7:38 p.m.

(8) **APPEAL NO. 00-257**

THOMAS MALATESTA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[400 Page Street.
[Protesting issuance on December 9, 2000, [to Frank Lembi, permit to Alter a Building [(roof deck addition).
[APPLICATION NO. 2000/09/05/9671.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by President Chin to uphold the permit with no conditions, the Board voted 3-1 (Commissioner McInerney dissenting). Upon motion by Commissioner McInerney to rescind the previous vote and to reconsider the matter and to grant the permit with three **CONDITIONS:** the railing to be open and the deck to be fire resistant, and no barbecuing to be allowed on the deck, the Board voted 4-0 to **UPHOLD** the permit with the three **CONDITIONS** above.

SPEAKERS: 1. Jack Scott for the appellant, showed photos to demonstrate the closeness of the two buildings and how the proposed roof deck would create a tunnel effect between them. **2.** Fred Kollerbohm, an engineer, representing the permit holder described the long process his client had gone through with Planning and Building Inspection to obtain a permit for the code-complying deck. He said the issue is the railing for the deck. **3.** Lawrence Badiner (ZA) explained the non-conforming structure limits for roof decks and the regulations for railings and firewalls under the Planning Code. **4.** Rafael Torres-Gil (SBI, DBI) explained the Building Code regulations for decks and railings. **There was no public comment for either side.**

Items (9A) through (9D) were heard together

(9A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Demolish [a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(9C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(9D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to **CONTINUE** the matter to **March 21, 2001** at the request of the parties.

SPEAKERS: 1. Robert McCarthy, attorney for the appellants requested that the Board continue these matters to April 11, 2001 because of the lack of Section 311 Notification to neighbors of the project prior to the issuance of the permit. He was willing to have the matter passed so parties could try to settle the appeals in the corridor. **2.** Steven Atkinson, attorney for the permit holders said he too wanted a continuance so that all five members of the Board could be present and that he was willing to have the matters passed in order for the parties to try to settle in the corridor, though he preferred to be heard tonight. Parties did not reach a settlement in corridor. **3.** Timothy Moppin, attorney for appellant Alan Kuhn agreed to the continuance of the appeals to March 21, 2001.

(10) **APPEAL NO. 00-262**

RUSSELL J. SAVAGE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[4333 – 17th Avenue.
[Protesting issuance on December 14, 2000,
[to Nancy Eng, permit to Alter a Building
[(horizontal and vertical additions).
[APPLICATION NO. 2000/08/11/7710S.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 4-0 to **UPHOLD** the department and **GRANT** the permit.

SPEAKERS: Russell Savage, appellant, said he was protesting just the vertical addition and not the horizontal addition. He said the vertical addition will block sunlight and magnificent views from his four-unit building next door and it will be a disaster for him. He disagreed with Jeremy Paul's characterization of the setbacks as a concession to the neighbors. **2.** Jeremy Paul, representing the permit holder, said the addition will be set back three feet from the appellant's property line and that the appellant's building is much larger than his client's. **There was no public comment for either side.**

(11) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000, [to K.M. Lo, permit to Erect a six unit [apartment building.
[APPLICATION NO. 9804165S.
[FOR HEARING TODAY.

ACTION: After discussion, upon motion by Commissioner El Qadah, the Board voted 4-0 to **CLOSE** the public hearing and **CONTINUE** the matter to **March 21, 2001**.

SPEAKERS: **1.** Victor Young, an appellant speaking for all the appellants explained that there had been no notice of the proposed project to him and the other neighbors and that it is not clear to them from the plans what the project is exactly and they wanted the Planning Commission to look at the project. He said the project is an accident waiting to happen because of its affect on traffic flow, especially to the vans serving the elderly at the Lady Shaw building next door. **2.** Bunny Chin, another appellant, said that the project would create traffic hazards for the elderly in the neighborhood and she asked how would fire trucks be able to serve the buildings next door the subject site. **3.** Jeremy Paul, representing the permit holder, clarified the parking program for the project and acknowledged the effect on traffic is the major concern of the appellants and he will pursue solutions in consultation with Department of Public Works. He said this site is ripe for new housing and he explained further how the parking spaces would be situated along Salmon Alley. **Public Comment for appellants: 4.** Jeff Wong said that the appellants would egress from Mason Street. **5. No Public Comment for permit holder.**

(12) **APPEAL NO. 00-194**

INASSOCIATION, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[Zoning Administrator determination dated [October 5, 2000 that the proposal to develop [an online service which would allow people [with driveways to rent them to people where [such use does not block sidewalks or violate [other city laws would not be feasible as it [would be allowed only under certain [conditions pursuant to Planning Code [Sections 150, 155, and 311; and it is [unusual for a property in San Francisco to [have a setback large enough to [accommodate a vehicle that is not in the [required open area.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0 to **UPHOLD** the Zoning Administrator.

SPEAKERS: The appellant did not appear and there was no testimony or public comment.

There being no further business, President Chin adjourned the meeting at 8:47 p.m.

Robert H. Feldman

Arnold Y.K. Chin, President

Robert H. Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained directly from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

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REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MARCH 28, 2001

5:30 P.M., CITY HALL, ROOM 416

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **APPEAL NO. 00-036**

MATTHEW WONG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on March 2, 2000, of Taxicab
[Medallion No. 942.
[RESOLUTION NO. 2000-17.
[FOR REHEARING TODAY.

(4) **APPEAL NO. 00-197**

MACEDONIO GUERZON, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on October 13, 2000, of
[Taxicab Medallion #196.
[RESOLUTION NO. 2000-91.
[FOR HEARING TODAY.

(5) **APPEAL NO. V00-010**

ALI KHOSTOVAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1133 Hayes Street.
[Denial on December 9, 1999 of Parking
[Variance (to add one unit to an existing five-
[unit building without providing the required
[parking space).
[(JURISDICTION GRANTED ON JANUARY
[12, 2000).
[VARIANCE CASE NO. 99.613V.
[FOR FURTHER HEARING TODAY.

(6) **APPEAL NO. 00-161**

ROBERT T. HOLLAND, dba "EDWARD II BED AND BREAKFAST", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[3155 Scott Street.
[Order to Cease Violation of the Planning
[Code dated September 11, 2000 for
[billboard exceeding 24 feet in height
[constructed without proper permits on the
[west-facing wall of the building.
[PUBLIC HEARING CLOSED AFTER
[TESTIMONY DECEMBER 6, 2000.
[FOR FURTHER CONSIDERATION
[TODAY.

Items (7A) and (7B) shall heard together

(7A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Erect a Building (25 [live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

Items (8A) and (8B) shall heard together

(8A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., permit to Demolish a Building [(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., permit to Erect a Building (eight [live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-025**

ASPEN CREEK PARTNERSHIP, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[165 - 10th Street.
[Zoning Administrator determination dated [January 19, 2001 that of the total of 11,758 [gross s.f. of the pre-existing office space, [the balance of the gross floor area of the [second and third floors, a total of 3,289 s.f. [gross floor area of the pre-existing office [exist at the subject property, 2,445 gross s.f. [on the second and 844 gross s.f. at the third [floor, and that 4,216 gross s.f. on the ground [floor has been continuously occupied as [office space since 1991 despite an apparent [lack of Planning Department approval.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-036**

BRENDAN HALLINAN, dba "SAN FRANCISCO WALL-SCAPES", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1601 Mission Street.
[Disapproval by the Zoning Administrator on [February 1, 2001 of a building permit [application to install a general advertising [sign on the auto service station for the [reason that Planning Code Section 607(h) [does not allow such signs in a C-M (Heavy [Commercial) Zoning District.
[APPLICATION NO. 2000/10/24/3840.
[FOR HEARING TODAY.

Date posted: March 22, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE REGULAR MEETING

OF THE SAN FRANCISCO BOARD OF APPEALS

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WEDNESDAY, MARCH 28, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Commissioners Carole Cullum, Allam El Qadah and John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator (ZA); Rafael Torres-Gil, Senior Building Inspector, Department of Building Inspection (SBI, DBI); Paul Zarefsky, Deputy City Attorney (DCA); and Robert Feldman, Executive Secretary for the Board.

ABSENT: Vice President Sabrina Saunders.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: **1.** Patricia Vaughey of the Lombard Street Committee explained the work her committee was doing on a report on all the billboards along Lombard Street to aid the Planning Department in its enforcement against unlawful signs. She said this presented a very complex problem for the City. **2.** Mark Gruberg, taxi driver and medallion holder, described the appeals of Taxicab Commission revocations as outrageous and described the benefits those revoked have while their appeals to the Board are delayed again and again. **3.** Ron Wolter, taxi driver and medallion holder, said he agreed with Mr. Gruberg. **4.** Barry Taranto of the United Taxi Workers said he felt insulted the last time he testified at the Board. He explained his views of the driving requirement for medallion holders and the intent they do or do not show to fulfill the requirement. He said the medallion holders' action and behavior shows their intent or lack of it.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: **1.** Commissioner El Qadah...

(3) **APPEAL NO. 00-036**

MATTHEW WONG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on March 2, 2000, of Taxicab
[Medallion No. 942.
[RESOLUTION NO. 2000-17.
[FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Vice President Saunders absent) to **RESCHEDULE** the matter to **May 9, 2001**.

SPEAKERS: **1.** Cindy Lee, attorney for the appellant, requested a continuance of the appeal in order to have a full five member Board. She said her client was not able to be at the meeting due to family matters. **2.** Paul Zarefsky, DCA, representing the Taxicab Commission objected to the continuance strenuously because the appeal has been pending for a year and the abuse of the rules continues by the appellant and the appellant had filed no brief for this hearing while he had and was ready to go forward with the hearing.

(4) **APPEAL NO. 00-197**

MACEDONIO GUERZON, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on October 13, 2000, of
[Taxicab Medallion #196.
[RESOLUTION NO. 2000-91.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Vice President Saunders absent) to **RESCHEDULE** the matter to **May 9, 2001**.

SPEAKERS: **1.** John Mejia, attorney for the appellant, asked for a continuance in order to have a five member Board. **2.** Paul Zarefsky, DCA, objected to the request.

(5) **APPEAL NO. V00-010**

ALI KHOSTOVAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1133 Hayes Street.
[Denial on December 9, 1999 of Parking
[Variance (to add one unit to an existing five-
[unit building without providing the required
[parking space).
[(JURISDICTION GRANTED ON JANUARY
[12, 2000).
[VARIANCE CASE NO. 99.613V.
[FOR FURTHER HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Vice President Saunders absent) to **UPHOLD** the denial of the subject variance.

SPEAKERS: **1.** Larry Badiner, ZA, reminded the Board of the last hearing in this matter when the Board continued the hearing so that the ZA could mediate the dispute between the parties. He said he was not able to do so. **2.** Ahmad Mohazab, architect for the appellant, said that his client was willing to sign a lease for an off-street parking space from a neighbor. He said he is sorry he had not met the people who testified but he looked forward to meeting them. He was sorry for the 15 years of animosity between his client and the neighbors. The seismic requirements would be set by DBI and would be met. **Public Comment for the ZA:** **3.** David Katz from the Alamo Square Neighborhood Association read a letter from their president opposed to the project for several reasons including the fact that it has been going on for 15 years without a permit and the City should not encourage scofflaws. **4.** Brian McCarthy said this was the third time around on this project and the parking problem in their neighborhood is especially severe, with cars parking on sidewalks leaving oil that is a very real hazard especially for elderly pedestrians. **5.** Debra Edgerley said she purchased her home in 1983 and it has no off-street parking space, so she must hunt for a space every evening. **6.** Liz Morgan opposes the project because of the parking congestion already in the area. **7.** Jim Himm, architect, said he has done work in the area and opposes such illegal construction because of the fire hazard it creates. **8.** Frank Green said he is opposed to the granting of the variance under any circumstances or with any conditions. **9.** Patricia Vaughey said this has been a problem for 16 years with no penalties levied on the appellant for work done without a permit and without any hearings before the Director of DBI.

(6) **APPEAL NO. 00-161**

ROBERT T. HOLLAND, dba "EDWARD II BED AND BREAKFAST", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[3155 Scott Street.
[Order to Cease Violation of the Planning [Code dated September 11, 2000 for [billboard exceeding 24 feet in height [constructed without proper permits on the [west-facing wall of the building.
[PUBLIC HEARING CLOSED AFTER [TESTIMONY DECEMBER 6, 2000.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to **CONTINUE** the matter to **June 20, 2001** with the public hearing **CLOSED**.

SPEAKERS: **1.** Larry Badiner, ZA, explained why this appeal had been continued, a report was coming from the neighborhood about all the signs there, but the report had not yet been submitted. **2.** Frank Campagnoli, attorney for the appellant, introduced the appellant's wife and he explained the complexity of sign enforcement which widows both City and ordinances and State laws requiring compensation to owners when signs are removed by enforcement action. **3.** Denise Holland, wife of the appellant, explained the history of their ownership of the property and their efforts to restore it. She said they never received more than thirty dollars a month for the sign. **No Public Comment.**

Items (7A) and (7B) were heard together

(7A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Erect a Building (25 [live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Vice President Saunders absent) to **RESCHEDULE** both cases to **May 23, 2001**.

Items (8A) and (8B) were heard together

(8A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to
[Armax, Inc., permit to Demolish a Building
[(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to
[Armax, Inc., permit to Erect a Building (eight
[live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Vice President Saunders absent) to **RESCHEDULE** both cases to **May 23, 2001**.

SPEAKERS: 1. Rick Holman, appellant, said that a continuance to May 23rd was not good for him. **2.** Joseph Breall, attorney for the permit holder, said he was opposed to a continuance and wanted to go forward with the hearing. He said the redesign had been agreed to by the parties. He said the issue was a fire escape or a stairwell. **No Public Comment.**

(9) **APPEAL NO. 01-025**

ASPEN CREEK PARTNERSHIP, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[165 - 10th Street.
[Zoning Administrator determination dated
[January 19, 2001 that of the total of 11,758
[gross s.f. of the pre-existing office space,
[the balance of the gross floor area of the
[second and third floors, a total of 3,289 s.f.
[gross floor area of the pre-existing office
[exist at the subject property, 2,445 gross s.f.
[on the second and 844 gross s.f. at the third
[floor, and that 4,216 gross s.f. on the ground
[floor has been continuously occupied as
[office space since 1991 despite an apparent
[lack of Planning Department approval.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Vice President Saunders absent) to OVERRULE the subject determination.

SPEAKERS: 1. Larry Badiner, ZA, explained his determination and the convoluted permit history of this 1910 building. **2.** Ricky Mason, agent for appellant, said the ZA had described the situation appropriately. **No public comment.**

(10) **APPEAL NO. 01-036**

BRENDAN HALLINAN, dba "SAN FRANCISCO WALL-SCAPES", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1601 Mission Street.
[Disapproval by the Zoning Administrator on [February 1, 2001 of a building permit [application to install a general advertising [sign on the auto service station for the [reason that Planning Code Section 607(h) [does not allow such signs in a C-M (Heavy [Commercial) Zoning District.
[APPLICATION NO. 2000/10/24/3840.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator's disapproval with a **FINDING** that Planning Code Section 607(h) was inadvertently removed at the time of the amendment of the sign ordinance, and that the Planning Code does not prohibit signs on this site.

SPEAKERS: **1.** Larry Badiner, ZA, described the site across the street from the Board and Planning offices and why he had denied the building permit for the signs proposed for the site which is presently a gas station and car wash. He said the Planning Code prohibited such signs in the C-M District. **2.** Dean Arbit, appellant's business partner, said that they were willing to design the signs in consultation with the Planning Department and that the Code section under which it was denied has been deleted from the Code and should not be enforced. **3.** Brendan Hallinan, appellant, said the section of the Code had been deleted but appeared to still be in the Code through a clerical error. The ordinance which created the sign provision had been adopted without proper notice to the property owners in the area and the prohibitions were for Union Square and not this area. **Public Comment for the Appellant:** **4.** Allen Kipper said the revenue the sign will produce is needed to make the business on the site work. He said he is an owner in the area and never had notices from the City when the ordinance was amended and signs were prohibited on service stations. **No Public Comment for ZA.**

There being no further business, President Chin adjourned the meeting at 8:02 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

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REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, APRIL 4, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **REQUESTS FOR REHEARING:**

ITEM A: 993 Tennessee Street. Letter from Constance Channon and Paul Zingaro, appellants requesting rehearing of Appeal No. 00-240, heard February 21, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **UPHOLD** the site permit with **FINDINGS** that were read into the record by CommIssioner McInerney.

ITEM B: 2001, 2051, 2095 Harrison Street. Letter from Sue Hestor, attorney for Mission Anti-Displacement Coalition, appellant requesting rehearing of Appeal Nos. 01-012, 01-013, 01-014, heard February 21, 2001. Upon motion by Vice President Saunders, the Board voted 4-0 (Commissioner McInerney abstained) to **RECUSE** Commissioner McInerney. Afterwards, upon motion by Vice President Saunders, the Board voted 3-1 (Commissioner Cullum dissented, Commissioner McInerney recused) to **UPHOLD** the permits, with **FINDINGS** that were read into the record by President Chin.

ITEM C: 2001, 2051, 2095 Harrison Street. Letter from Patrick D. Goggin, attorney for Project Artaud, appellant, requesting rehearing of Appeal Nos. 01-015, 01-016, 01-017, heard February 21, 2001. Upon motion by Vice President Saunders, the Board voted 4-0 (Commissioner McInerney abstained) to **RECUSE** Commissioner McInerney. Afterwards, upon motion by Vice President Saunders, the Board voted 3-1 (Commissioner Cullum dissented, Commissioner McInerney recused) to **UPHOLD** the permits, with **FINDINGS** that were read into the record by President Chin.

ITEM D: 175 Russ and 68 Harriet Streets. Letter from Sue Hestor, attorney for Coalition for Jobs Arts and Housing, appellant requesting rehearing of Appeal Nos. 01-023 and 01-024, heard February 21, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **UPHOLD** the permits with **PROP M FINDINGS** that were incorporated by reference and other **FINDINGS** that were read into the record.

ITEM E: 1320 Bryant Street. Letter from Judy West, appellant requesting rehearing of Appeal No. 00-256, heard March 7, 2001. Upon motion by Commissioner Cullum, the Board voted 4-0 (Vice President Saunders absent) to **UPHOLD** the department and **GRANT** the permit with findings that were read into the record by Commissioner Cullum.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 01-003**

NINA GURALNIK, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[PLUMBING PERMIT NO. P396394.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 01-004**

NINA GURALNIK, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[ELECTRICAL PERMIT NO. E211126.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR WONG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000,
[to K.M. Lo, permit to Erect a Building (six
[unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 00-230**

ROBERT & MARILYN ALLEN, RALF & LESLEY JESCHKE, WILLIAM & SHERRILL McGRANE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[222 El Camino Del Mar.
[Protesting issuance on October 31, 2000, to
[Robert and Althea Howe, permit to Alter a
[Building (construct solid and lattice fence at
[two sides of rear yard; construct potting
[shed on rear deck).
[APPLICATION NO. 2000/10/31/4533.
[FOR HEARING TODAY.

Items (7A) through (7D) shall be heard together

(7A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(7C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Erect a [Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-018**

QOREY D. GOLOB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[147 Welsh Street.
[Protesting issuance on January 19, 2001, to [Murial Phillips, permit to Alter a Building [(demolish interior walls; gut interior; prepare [for new construction with no structural [alterations).
[APPLICATION NO. 2001/01/19/0190.
[FOR HEARING TODAY.

Items (9A) through (9E) shall be heard together

(9A) **APPEAL NO. 01-029**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[690 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Demolish a [Building (single-family dwelling).
[APPLICATION NO. 2000/06/08/2102.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-030**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[692 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/06/08/2104S.
[FOR HEARING TODAY.

(9C) **APPEAL NO. 01-031**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[694 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/06/08/2113S.
[FOR HEARING TODAY.

(9D) **APPEAL NO. 01-032**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[696 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/06/08/2107S.
[FOR HEARING TODAY.

(9E) **APPEAL NO. 01-033**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[698 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/05/08/9352S.
[FOR HEARING TODAY.

[APPLICATION NO. 2000/05/08/9352S.
[FOR HEARING TODAY.

(10) **APPEAL NO. V01-005**

STJEPAN VARGIC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[140 Point Lobos Avenue.
[Protesting granting on January 4, 2001, to [Colleen and Cleveland Lee, Rear Yard [Variance (600 s.f. addition to the west edge [of the existing rear portion of the building, [and a stair behind this structure).
[VARIANCE CASE NO. 2000.1025V.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-028**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2345 Third Street.
[Revised Zoning Administrator determination [dated January 18, 2001 that Michael Patrick [Partners, Inc. is an "Arts Activities and [Space" use which is a principally permitted [use in a M-2 (Heavy Industrial) Zoning [District.
[FOR HEARING TODAY.

(12) **PROPOSED AMENDMENT TO BOARD RULES:** Public hearing and consideration by the Board of a proposed addition to the Rules of the Board of Appeals regarding the appointment of an Acting Vice President by the President of the Board in the event of incapacity or absence of the Vice President until the return of the Vice President to the Board. The Acting Vice President would perform the duties of the Vice President as set forth in these Rules. If adopted by the Board of Appeals would add a new Section 5 to Article 3 of these Rules.

Copies of the Rules of the Board of Appeals and the proposed addition are available at the Board office.

(13) **PUBLIC HEARING AND CONSIDERATION OF RAISING FEES FOR FILING APPEALS:** Would require amendment of Section 8 of Part III of the Municipal Code by the Board of Supervisors. Copies of the Code are available at the Board office. Letters may be submitted to the Board at its office or by fax at 575-6885.

Date posted: March 29, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE REGULAR MEETING OF THE

SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, APRIL 4, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

DOCUMENTS DEPT.

APR 19 2001

SAN FRANCISCO
PUBLIC LIBRARY

PRESENT: President Arnold Chin, Vice President Sabrina Saunders (who attended from 5:55 p.m. to 6:30 p.m.), Commissioner Carole Cullum, Commissioner Allam El Qadah and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); Paul Zarefsky, Deputy City Attorney (DCA); and Robert Feldman, Executive Secretary for the Board.

Tom Frasik, substituting for the Official Court Reporter, Easteller Bruihl, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKER: President Chin appointed Commissioner El Qadah as Acting Vice President under the newly adopted rule.

(3) **REQUESTS FOR REHEARING:**

ITEM A: 993 Tennessee Street. Letter from Constance Channon and Paul Zingaro, appellants requesting rehearing of Appeal No. 00-240, protest of permit issued to Bernardo Urquieta to erect a 10 live-work unit building at 993 Tennessee Street, heard February 21, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **UPHOLD** the site permit with **FINDINGS** that were read into the record by Commissioner McInerney.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **DENY** the request for rehearing.

SPEAKERS: **1.** Stephen Williams, attorney for the appellants/ requestors, asked the Board to honor the moratorium on live-work units and to grant a rehearing in this matter even though litigation may lead to a ballot measure next November challenging the moratorium. **2.** Alice Barkley, attorney for the permit holder, said tat even with litigation pending the Board should not grant the request for rehearing because the permits were approved by the Board before the moratorium went into effect on Friday, February 23, 2001. Also, the requestors did not offer any new evidence which might justify a second hearing.

ITEM B: 2001, 2051, 2095 Harrison Street. Letter from Sue Hestor, attorney for Mission Anti-Displacement Coalition, appellant requesting rehearing of Appeal Nos. 01-012, 01-013, 01-014, protesting site permits issued to Harrison Development LLC to erect live-work units at 2051, 2001 and 2095 Harrison Street, heard February 21, 2001. Upon motion by Vice President Saunders, the Board voted 4-0 (Commissioner McInerney abstained) to **RECUSE** Commissioner McInerney. Afterwards, upon motion by Vice President Saunders, the Board voted 3-1 (Commissioner Cullum dissented, Commissioner McInerney recused) to **UPHOLD** the permits, with **FINDINGS** that were read into the record by President Chin.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney abstained) to RECUSE Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to **DENY** the request for rehearing.

SPEAKERS: **1.** Sue Hestor, attorney for the appellant/ requestor, asked the Board for a rehearing and said it was unfair during the fall for the Board to have rescheduled the live-work appeals to earlier dates so they could be acted on before the moratorium went into effect. She called this just gamesmanship to her clients' disadvantage. **2.** Alice Barkley, attorney for the permit holder, said tat even with litigation pending the Board should not grant the request for rehearing because the permits were approved by the Board before the moratorium went into effect on Friday, February 23, 2001. Also, the requestors did not offer any new evidence which could have been submitted at the original hearing.

ITEM C: 2001, 2051, 2095 Harrison Street. Letter from Patrick D. Goggin, attorney for Project Artaud, appellant, requesting rehearing of Appeal Nos. 01-015, 01-016, 01-017, protesting site permits issued to Harrison Development LLC to erect live-work units at 2051, 2001 and 2095 Harrison Street, heard February 21, 2001. Upon motion by Vice President Saunders, the Board voted 4-0-1 (Commissioner McInerney abstained) to **RECUSE** Commissioner McInerney. Afterwards, upon motion by Vice President Saunders, the Board voted 3-1-1 (Commissioner Cullum dissented, Commissioner McInerney recused) to **UPHOLD** the permits, with **FINDINGS** that were read into the record by President Chin.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney abstained) to RECUSE Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to **DENY** the request for rehearing.

SPEAKERS: **1.** Patrick Goggin, attorney for the appellant/ requestor, urged the Board to grant a rehearing because the hearing was only two days before the moratorium was passed and it was true there was no evidence to present at a rehearing except the new controls. **2.** Alice Barkley, attorney for the permit holder, said that fairness required the Board to not grant a rehearing since the applications were filed in 1998 and the Streamlining Act requires them to be approved. She said any conversion to office use of the lofts was the fault of their owners since the developer has recorded a Notice of Special Restrictions and had informed the buyers of the live-work regulations.

ITEM D: 175 Russ and 68 Harriet Streets. Letter from Sue Hestor, attorney for Coalition for Jobs Arts and Housing, appellant requesting rehearing of Appeal Nos. 01-023 and 01-024, protesting site permits issued to Russ Street Association LLC to erect live-work units at 175 Russ Street and 86 Harriet Street, heard February 21, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **UPHOLD** the permits with **PROP M FINDINGS** that were incorporated by reference and other **FINDINGS** that were read into the record.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Vice President Saunders absent) to **DENY** the request for rehearing.

SPEAKERS: **1.** Sue Hestor, attorney for the appellant/requestor, asked that Commissioner McInerney not participate in this hearing since it appears he has a conflict of interest in this case and the status of Mr. Cassidy is still not clear. **2.** Alice Barkley, attorney for the permit holder, rebutted Ms. Hestor's arguments and explained the consulting nature of Mr. Cassidy's involvement in the project.

ITEM E: 1320 Bryant Street. Letter from Judy West, appellant requesting rehearing of Appeal No. 00-256, protesting permit to Marian and Alon Byer to erect a building, heard March 7, 2001. Upon motion by Commissioner Cullum, the Board voted 4-0 (Vice President Saunders absent) to **UPHOLD** the department and **GRANT** the permit with findings that were read into the record by Commissioner Cullum.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-1-1 (Commissioner Cullum dissented, Vice President Saunders absent) to **DENY** the request for rehearing.

SPEAKERS: 1. Judy West, appellant/ requestor, asked that the Board grant a rehearing to allow more time for her to arrange for the site to be used as a bikeway. **2.** Daniel Sullivan, agent for the permit holder, asked the Board to deny the request since his client wishes to build a commercial building on the site which is necessary to the continued success of his business.

(4) **CONSENT ITEMS:** Without consent from the Department of Building Inspection, the Board will took testimony and then decide the appeals.

(4A) **APPEAL NO. 01-003**

NINA GURALNIK, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[PLUMBING PERMIT NO. P396394.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 3-1-1 (Commissioner McInerney dissented, Vice President Saunders absent) to reduce the penalty to three times the regular fee. Four votes being necessary to overturn any departmental action, the motion **FAILED**, and the original penalty of nine times the regular fee was **UPHELD**.

SPEAKERS: 1. Nina Guralnik, appellant, said the work in question was done by the former owner, and she asked the Board to refund the penalties she has paid. **2.** Laurence Kornfield, CBI, DBI, went through the history of inspections and hearings on the property and urged the Board to uphold the penalties. **No Public Comment.**

(4B) **APPEAL NO. 01-004**

NINA GURALNIK, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[108 Monterey Blvd.
[Appeal for Refund of Penalty imposed on
[January 12, 2001.
[ELECTRICAL PERMIT NO. E211126.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 3-1-1 (Commissioner McInerney dissented, Vice President Saunders absent) to reduce the penalty to five times the regular fee. Four votes being necessary to overturn any departmental action, the motion **FAILED**, and the original penalty of nine times the regular fee was **UPHELD**.

SPEAKERS: Same as Item 4(A).

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR WONG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000, [to K.M. Lo, permit to Erect a Building (six [unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7, [2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to CONTINUE the matter to **May 23, 2001**, with the public hearing **CLOSED**, and with a directive for the permit holder to meet with the Board of Directors of the Lady Shaw Senior Center.

SPEAKERS: **1.** Jeremy Paul, agent for the permit holder, reported on his meeting with the appellants and his attempts to meet with Lady Shaw's leader. **2.** James Lee, agent for the appellants, explained the appellants' view of the meeting with Mr. Paul and what the appellants seek out of this process. **No Public Comment.**

(6) **APPEAL NO. 00-230**

ROBERT & MARILYN ALLEN, RALF & LESLEY JESCHKE, WILLIAM & SHERRILL McGRANE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[222 El Camino Del Mar.
[Protesting issuance on October 31, 2000, to [Robert and Althea Howe, permit to Alter a [Building (construct solid and lattice fence at [two sides of rear yard; construct potting [shed on rear deck).
[APPLICATION NO. 2000/10/31/4533.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to **CONTINUE** the matter to **May 9, 2001**, with the public hearing **CLOSED**.

SPEAKERS: **1.** James Stavoy, architect for the appellants, explained the permit and the Discretionary Review (DR) history of this project and why the neighbors have serious concerns with it. **2.** Cheryl McGrane, co-appellant, described her view of the wall and how it blocked her sunlight. **3.** Lesley Jeschke, co-appellant, said she had endured a nightmare from the shed high up on the wall. **4.** Robert Allen, co-appellant, said the project will put his house in the shade as in a dungeon. **5.** Larry Badiner, ZA, described the DR history of the project and said the permit was approved over the counter improperly and that the fence may violate the conditions of the DR decision of the Planning Commission. **6.** Andrew Zacks, attorney for the permit holders, said the wall had been built under a prior permit that had been approved based on the DR decision. **7.** Lewis Butler, architect for the permit holders, said that he had designed the project within the DR decision of the Planning Commission in 1995 voluntarily and that the house and project does not cover more than half the lot, and that the pitched roof they were using would increase the light to the neighbors. **No Public Comment.**

Items (7A) through (7D) were heard together

(7A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(7C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Vice President Saunders absent) to **RESCHEDULE** all four cases to **May 9, 2001.**

SPEAKERS: None.

(8) **APPEAL NO. 01-018**

QOREY D. GOLOB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[147 Welsh Street.
[Protesting issuance on January 19, 2001, to
[Murial Phillips, permit to Alter a Building
[(demolish interior walls; gut interior; prepare
[for new construction with no structural
[alterations).
[APPLICATION NO. 2001/01/19/0190.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-1-1 (Commissioner El Qadah dissented, Vice President Saunders absent) to **UPHOLD** the subject permit.

SPEAKERS: 1. Qorey Golob, appellant, described her efforts to retain her living space in the subject warehouse and asked the Board to revoke the permit. **2.** Theodore Klaassen, attorney for the permit holder, said the tenant has no right to remain in the building which is zoned M-2 and in which dwelling units are not permitted. He explained the dealings with the former tenant who had willingly moved out, after they settled the matter. **3.** Alon

Picker, the former tenant, said the lawyer was lying through his teeth and that the landlord had done work in the building without the proper permits. **4.** Laurence Kornfield, CBI, DBI, described the permit history of the building and said it was a commercial building with no authorization for any residential use. He said the building was being gutted now for a new tenant. **5.** Larry Badiner, ZA, said the Planning Commission's policy is not to protect illegal units even if they are twenty years old.

Items (9A) through (9E) were heard together

(9A) **APPEAL NO. 01-029**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[690 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Demolish a [Building (single-family dwelling).
[APPLICATION NO. 2000/06/08/2102.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-030**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[692 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/06/08/2104S.
[FOR HEARING TODAY.

(9C) **APPEAL NO. 01-031**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[694 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/06/08/2113S.
[FOR HEARING TODAY.

(9D) **APPEAL NO. 01-032**

BARRY DEUTSCH, Appellant
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PLANNING DEPARTMENT APPROVAL

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[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/06/08/2107S.
[FOR HEARING TODAY.

(9E) **APPEAL NO. 01-033**

BARRY DEUTSCH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[698 De Haro Street.
[Protesting issuance on January 23, 2001, to [Chrysalis Hill LLC, permit to Erect a [Building (two-family dwelling).
[APPLICATION NO. 2000/05/08/9352S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board 2-2-1 (President Chin and Commissioner McInerney dissented, Vice President Saunders absent) to reschedule the matter to May 9, 2001. Three votes being necessary to reschedule any case, the motion **FAILED** and the hearing went forward. Afterwards, upon motion by Commissioner McInerney, the Board voted 3-1-1 (Commissioner Cullum dissented, Vice President Saunders absent) to **UPHOLD** the demolition permit and the four site permits, with **NEGATIVE DECLARATION FINDINGS** that were read into the record by Commissioner McInerney.

SPEAKERS: **1.** Chris Cole, attorney for the appellant, asked for a rescheduling of the appeals to a later date. He said he had a petition supporting the appellant with 530 signatures on it. He said the Recreation and Parks and Open Space element of the General Plan supported his position and that the subject property was important as a habitat for many plants and animals. He said the matter should be continued until after the court decides the environmental issue. **2.** Barry Deutsch, appellant, said that the proposed units will not be affordable and that it will drive out many birds and butterflies as well as plants tended by his wife. **3.** Barbara Deutsch, wife of the appellant, said the project poses a danger to public health, that the songbirds of Potrero Hill need to be protected, and that the site provides many children in the neighborhood with a rewarding educational experience. **4.** Kevin Dill, agent for the permit holder, said it has been a long and arduous process and he opposed a continuance because of the many delays already caused by the appellant, and that the Planning Commission had approved his project and said it is appropriate on this site and that there has been no City action to make the house a designated landmark. **5.** Barbara Presta, agent for the permit holder, said that the subject home is not the only one of its kind in the neighborhood, that there are dozens of such houses on Potrero Hill, and that all are in better condition than the subject home. **Public Comment for Appellant:** **6.** David Graves said that the site was important for teaching children from the nearby school about nature, and that Barbara Deutsch teaches children about butterflies. **7.** Michele Schaal said she has lived in the neighborhood for 18 years and that she walks by the site often and it is filled with many wonders. She will be sad to lose it to development. **8.** Margo Bors said she has lived nearby since 1968 and that she is concerned with the loss of this natural open space which provides habitat for wildlife in the middle of the City and that the neighborhood rejected the project in order to keep this as open space, which provides a home to many small birds. **9.** Jean Neblett said he opposes the project and that his letter in the file explained his concerns about the loss of habitat. He supports the appellant. **10.** Deirdre Elmansoumi said that developers are never satisfied. The site is home to 36 endangered species. Barbara Deutsch has enhanced the habitat for wildlife. 11. Maria Gilardin said that developments like this are killing San Francisco in slow motion. Victorian Mews did it on the north side of Potrero Hill. She said the City is becoming uninhabitable for wildlife and for people. **No Public Comment for the Permit Holder.**

(10) **APPEAL NO. V01-005**

STJEPAN VARGIC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[140 Point Lobos Avenue.
[Protesting granting on January 4, 2001, to [Colleen and Cleveland Lee, Rear Yard [Variance (600 s.f. addition to the west edge [of the existing rear portion of the building, [and a stair behind this structure).
[VARIANCE CASE NO. 2000.1025V.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInemey, the Board voted 4-0-1 (Vice President Saunders absent) to **UPHOLD** the subject variance.

SPEAKERS: **1.** Larry Badiner, ZA, explained how this variance had met the five requirements necessary for the granting of a variance. **2.** Stjepan Vargic, appellant, said the project will add not 250sf to the owner's house but 600sf. He said the project will result in his house next door being shaded until 11:30 a.m. and he is a very sick man who has suffered through many surgeries recently. He said he begs the Board to stop the project. **3.** Cleveland Lee, variance holder, said the proposed roof of the addition will be sloped so as to minimize its impact on the neighbor's sunlight. **No Public Comment.**

(11) **APPEAL NO. 01-028**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2345 Third Street.
[Revised Zoning Administrator determination [dated January 18, 2001 that Michael Patrick [Partners, Inc. is an "Arts Activities and [Space" use which is a principally permitted [use in a M-2 (Heavy Industrial) Zoning [District.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-0-2 (Vice President Saunders absent, Commissioner McInerney abstained) to **RESCHEDULE** the matter to **April 18, 2001**.

SPEAKERS: 1. Larry Badiner, ZA, said the issue is whether the proposed use is an office for an advertising agency or for a graphics arts studio. An ad agency markets things and a studio designs them. He looked at resumes of employees to determine which use it is and determined it is a graphics arts space and not the office of an ad agency. He said the regulations of Article 8 of the Planning Code apply only in SOMA, but do give guidance in this matter. **2.** Sue Hestor, attorney for appellant, requested that Commissioner McInemey recuse himself for the reason he is of counsel to the law firm of Reuben & Alter which represented the permit applicant through the planning process up to this appeal when they dropped it and were replaced by Morrison and Foerster. 3. David Levy of Morrison & Foerster, attorney for the applicant, said his firm represents the landlord and the permit holder in this appeal. **No Public Comment.**

(12) **PROPOSED AMENDMENT TO BOARD RULES:** Public hearing and consideration by the Board of a proposed addition to the Rules of the Board of Appeals regarding the appointment of an Acting Vice President by the President of the Board in the event of incapacity or absence of the Vice President until the return of the Vice President to the Board. The Acting Vice President would perform the duties of the Vice President as set forth in these Rules. If adopted by the Board of Appeals would add a new Section 5 to Article 3 of these Rules.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to **ADOPT** the proposed addition to the Rules.

SPEAKER: Alice Barkley said she supported the proposed rule addition.

(13) **PUBLIC HEARING AND CONSIDERATION OF RAISING FEES FOR FILING APPEALS:** Would require amendment of Section 8 of Part III of the Municipal Code by the Board of Supervisors. Copies of the Code are available at the Board office. Letters may be submitted to the Board at its office or by fax at 575-6885.

ACTION: Upon motion by President Chin, the Board voted 5-0 to RESCHEDULE the matter to April 18, 2001.

SPEAKERS: None.

There being no further business, President Chin adjourned the meeting at 10:45 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

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REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, APRIL 18, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE (FORMERLY 301 POLK STREET)

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **APPEAL NO. 01-028**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2345 Third Street.
[Revised Zoning Administrator determination
[dated January 18, 2001 that Michael Patrick
[Partners, Inc. is an "Arts Activities and
[Space" use which is a principally permitted
[use in a M-2 (Heavy Industrial) Zoning
[District.
[FOR HEARING TODAY.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 01-047**

VICTOR & URSULA VELARDE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[29 Oliver Street.
[Imposition of Penalty on February 26, 2001.
[APPLICATION NO. 2001/01/08/9392.
[FOR HEARING TODAY.

Items (5A) and (5B) shall be heard together

(5A) **APPEAL NO. 98-035**

VICTOR TWAL dba "BUDDIES", Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on February 13, 1998, of permit to
[Alter a Building (legalize awning and sign
[installed without permit).
[APPLICATION NO. 9723854.
[FOR HEARING TODAY.

(5B) **APPEAL NO. 99-197**

MICHAEL CRAWFORD & TOM HANUS,
dba "CHAT CAFÉ", Appellant
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on December 7, 1999, of permit for
[12 chairs on sidewalk.
[FOR HEARING TODAY.

6) **APPEAL NO. 01-054**

ELIZA L. RANSOM, Appellant
vs.
DEPT OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[285 Faxon Avenue.
[Protesting issuance on February 27, 2001, [to Julio Perez, permit to Alter a Building [(expansion of rear second story addition to [existing first floor footprint).
[APPLICATION NO. 2000/10/12/2873.
[FOR HEARING TODAY.

(7) **PUBLIC HEARING AND CONSIDERATION OF RAISING FEES FOR FILING APPEALS:** Would require amendment of Section 8 of Part III of the Municipal Code by the Board of Supervisors. Copies of the Code are available at the Board office. Letters may be submitted to the Board at its office or by fax at 575-6885.

(8) **PUBLIC HEARING, CONSIDERATION AND ADOPTION OF CODE OF CONDUCT:** Would discourage City Department Directors and Commissioners from utilizing regularly scheduled public meetings to willfully attack, defame and/or slander fellow colleagues with disrespectful comments that are disparaging of their sexual orientation, race, ethnic background, religion, gender, age or physical ability.

are

Date Posted: April 12, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE REGULAR MEETING

OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, APRIL 18, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE (FORMERLY 301 POLK STREET)

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, and Commissioner Allam El Qadah.

Judith Boyajian, Deputy City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (SBI, DBI); and Robert Feldman, Executive Secretary for the Board.

ABSENT: Commisisoner John McInerney.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: **1.** President Chin welcomed back Vice President Saunders from her medical leave and thanked Commissioner El Qadah for his efforts as Acting Vice President during her absence. **2.** Vice President Saunders said it was good to be back.

(3) **APPEAL NO. 01-028**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant

vs.

ZONING ADMINISTRATOR, Respondent

[2345 Third Street.
[Revised Zoning Administrator determination [dated January 18, 2001 that Michael Patrick [Partners, Inc. is an "Arts Activities and [Space" use which is a principally permitted [use in a M-2 (Heavy Industrial) Zoning [District.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney absent) to **UPHOLD** the subject determination.

SPEAKERS: **1.** Larry Badiner, ZA, explained his determination and how he had analyzed graphics design use compared to office use. He said the changes in the building are still under 25,000 square feet and thus exempt from the limits for office use in the Planning Code. **2.** Sue Hestor, attorney for appellant, said there was more than 25,000 square feet and that under the Prop M of 1986 amendments to the Planning Code this is an office use which should trigger the imposition of all the fees imposed on office uses. She said the ZA is rewriting the Planning Code in this determination which is beyond the scope of his authority under the Charter and the Code. She said the proposed use diminishes industrial space needed for uses like the bakery which the building once housed. **3.** David Levy, attorney for the graphics firm that proposes to use the space, the permit applicant, said the Code provides specifically arts activities and space and the proposed use is consistent with the Planning Code. He asked the Board to uphold the ZA. **4.** Duane Maidens, a co-founder of the subject firm, said that his was not a web site design firm but rather one that creates logos and letterhead and posters, a true graphics arts firm and not an advertising agency which would be an office use. He said his 16 employees now must commute to Palo Alto and the proposed site would make commuting much more convenient for them and for their clients and vendors. **No Public Comment.**

(4) **CONSENT ITEMS:** Without consent from the Department of Building Inspection to reduce the subject penalty to two times the regular fee, the Board took testimony from both sides and decided the appeal as follows:

(4) **APPEAL NO. 01-047**

VICTOR & URSULA VELARDE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[29 Oliver Street.
[Imposition of Penalty on February 26, 2001.
[APPLICATION NO. 2001/01/08/9392.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 4-0-1 (Commissioner McInerney absent) to **REDUCE** the subject penalty to three times the regular fee.

SPEAKERS: **1.** Victor Velarde and Ursula Velarde, appellants, explained the history of their ownership of the house and how they were willing to remove the illegal fixtures to bring the house into compliance and asked for a reduction of the penalty because Ms. Velarde is pregnant and the illegal work was originally done by the previous owner. **2.** Laurence Kornfield, CBI, DBI, described the illegal work and its history and said the appellants, while they had done some illegal work, had been cooperative with DBI and were willing to bring the house into compliance as a one-family building.

Items (5A) and (5B) were heard together

(5A) **APPEAL NO. 98-035**

VICTOR TWAL dba "BUDDIES", Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on February 13, 1998, of permit to
[Alter a Building (legalize awning and sign
[installed without permit).
[APPLICATION NO. 9723854.
[FOR HEARING TODAY.

(5B) **APPEAL NO. 99-197**

MICHAEL CRAWFORD & TOM HANUS,
dba "CHAT CAFÉ", Appellant
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on December 7, 1999, of permit for
[12 chairs on sidewalk.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1(Commissioner McInerney absent) to **RESCHEDULE** both matters to **July 18, 2001**.

SPEAKERS: No appearances and no public comment.

(6) **APPEAL NO. 01-054**

ELIZA L. RANSOM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[285 Faxon Avenue.
[Protesting issuance on February 27, 2001, [to Julio Perez, permit to Alter a Building [(expansion of rear second story addition to [existing first floor footprint).
[APPLICATION NO. 2000/10/12/2873.
[FOR HEARING TODAY.

ACTION: This matter was **WITHDRAWN** prior to hearing.

(7) **PUBLIC HEARING AND CONSIDERATION OF RAISING FEES FOR FILING APPEALS:** Would require amendment of Section 8 of Part III of the Municipal Code by the Board of Supervisors. Copies of the Code are available at the Board office. Letters may be submitted to the Board at its office or by fax at 575-6885.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney absent) to **ADOPT** a resolution that an increase in filing fees is not warranted at this time, and that a $25 per permit surcharge is a more appropriate way to increase revenue for the department.

SPEAKERS: None.

(8) **PUBLIC HEARING, CONSIDERATION AND ADOPTION OF CODE OF CONDUCT:** Would discourage City Department Directors and Commissioners from utilizing regularly scheduled public meetings to willfully attack, defame and/or slander fellow colleagues with disrespectful comments that are disparaging of their sexual orientation, race, ethnic background, religion, gender, age or physical ability.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner McInerney absent) to **ADOPT** the draft code of conduct.

SPEAKERS: None.

There being no further business, President Chin adjourned the meeting at 6:52 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700.

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REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MAY 2, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **APPEAL NO. 00-212**

MYRA HOM SHORT, Appellant
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent

[653 Irving Street.
[Denial on October 27, 2000, of permit to
[Remove and Replace One Tree.
[ORDER NO. 172,618.
[FOR REHEARING TODAY.

(4) **APPEAL NO. 01-056**

ERIN DAY & SCOTT LARRIMER, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[4616-4618 - 18th Street.
[Denial on March 21, 2001, of permit to Alter
[a Building (remove upper unit kitchen and
[replace with bathroom; bathroom remodel
[in upper and lower units; combine two
[entryways and replace with double door;
[install new windows in upper unit; merges
[two units into one).
[APPLICATION NO. 2000/0/11/0100.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-019**

THE RANDALL STREET NEIGHBORHOOD, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[178 Randall Street.
[Protesting issuance on January 10, 2001, to
[Elena Asturias, permit to Alter a Building
[(garage addition, new front steps, enlarge
[and remodel existing in-law apartment, lift
[building from 23'-2" to 27'-8").
[APPLICATION NO. 9418782S.
[FOR HEARING TODAY.

(6) **APPEAL NO. 00-234**

ROBERT & HARUMI TAI, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[5 Freelon Street.
[Zoning Administrator determination dated
[November 7, 2000, that no evidence has
[been established that demonstrates an
[official change in use of the property from
["industrial" to "office" as a principal use; and
[any current or future attempt to occupy the
[subject property as "office" use would be
[considered a violation of the Planning Code.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-035**

ROBERT HEYMANN, dba "NATIONAL RENTAL CAR", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Zoning Administrator determination dated [January 23, 2001 that a Police Permit [Application Zoning Referral for a Driverless [Auto Rental business is recommended for [disapproval for failure to meet various [policies and objectives of the Planning Code [and to resolve the issues raised.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-057**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[945 Bryant Street.
[Zoning Administrator determination dated [March 9, 2001 addressed to Steve Atkinson [of Baker & McKenzie concerning the [property owned by Bryant Springs LLC, that [the proposed new tenant, eTranslate, Inc. is [similar to the former tenant Pets.com which [was considered by the Planning Department [in 1999 to be a business service and not an [office use and that eTranslate also is [deemed a business service use allowed in [the Service, Light Industrial Zone and the [Industrial Protection Zone
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: April 26, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
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San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE REGULAR MEETING OF THE

SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MAY 2, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

ABSENT: Commissioner Carole Cullum.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

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SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: **1.** Commissioner McInerney said that the document submitted at the last meeting purporting to limit his participation in a matter involving the firm of Ruben & Alter was a non-binding report of a committee of the State Bar. **2.** President Chin reported watching the Finance Committee on television and thanked Ms. Boyajian for recommending to the Committee that there be no appeal from the decisions of the Director of Planning to the Board of Appeals.

(3) **APPEAL NO. 00-212**

MYRA HOM SHORT, Appellant
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent

[653 Irving Street.
[Denial on October 27, 2000, of permit to
[Remove and Replace One Tree.
[ORDER NO. 172,618.
[FOR REHEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to **RESCHEDULE** the rehearing to **May 30, 2001**.

SPEAKERS: **1.** Pinky Cushner read two letters supporting the Department into the record and said she wants the tree saved because the neighborhood needs big trees and this one can be pruned sensitively and saved.
2. Milton Marks III, a Friend of the Urban Forest, said he objects to the removal of any trees and it is important to recognize the significance of trees which have been proven to be helpful in attracting customers to businesses.

(4) **APPEAL NO. 01-056**

ERIN DAY & SCOTT LARRIMER, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[4616-4618 - 18th Street.
[Denial on March 21, 2001, of permit to Alter [a Building (remove upper unit kitchen and [replace with bathroom; bathroom remodel [in upper and lower units; combine two [entryways and replace with double door; [install new windows in upper unit; merges [two units into one).
[APPLICATION NO. 2000/0/11/0100.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to **OVERRULE** the subject denial and **GRANT** the permit.

SPEAKERS: **1.** Erin Day, co-appellant, asked the Board to go forward with the hearing even though there were only four members present, for the reason her supporters were present. **2.** Larry Badiner, ZA, explained the Planning Commission's policy regarding merger of dwelling units and why the Commission denied this applicatio which had been filed prior to the adoption of the new policy. He said the City does not protect people' expectations. **3.** Erin Day, co-appellant, explained why she and her husband wanted to merge the two units an the chronology of events leading up to the denial of their application. **No Public Comment for the ZA. Publi Comment for the Appellants:** **4.** Gustavo Serina, corresponding secretary of the Eureka Valley Improvemer Association (EVIA), said his group supported the appellants for many reasons and that the appellants ha purchased the building in good faith and that there was no opposition to their application. **5.** Pauline Shaver, member of the EVIA said she supports the appellants and that the Planning Commission's action was arbitrar **6.** Herb Cohn, also a member of the EVIA and a local merchant group of the Upper Market and Castro, said it wa a case of bad timing and that he supported the appellants. **7.** Judith Hoyem said the housing crisis affec families since multi-bedroom homes are hard to find at affordable prices and that the Planning Commission ha been unfair to the appellants. **8.** Michael Babbitt said he was a neighbor and that it will be great to have them the neighborhood.

(5) **APPEAL NO. 01-019**

THE RANDALL STREET NEIGHBORHOOD, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[178 Randall Street.
[Protesting issuance on January 10, 2001, to [Elena Asturias, permit to Alter a Building [(garage addition, new front steps, enlarge [and remodel existing in-law apartment, lift [building from 23'-2" to 27'-8").
[APPLICATION NO. 9418782S.
[FOR HEARING TODAY.

ACTION: This matter was **WITHDRAWN** by the appellant prior to hearing.

(6) **APPEAL NO. 00-234**

ROBERT & HARUMI TAI, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[5 Freelon Street.
[Zoning Administrator determination dated [November 7, 2000, that no evidence has [been established that demonstrates an [official change in use of the property from ["industrial" to "office" as a principal use; and [any current or future attempt to occupy the [subject property as "office" use would be [considered a violation of the Planning Code.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to **OVERRULE** the subject determination with **FINDINGS** to be submitted by the appellants' attorney at a later time.

SPEAKERS: **1.** Larry Badiner, ZA, said the office use was not legal because there were no permits for the conversion to office use. **2.** Laurence Kornfield, CBI, DBI, explained the Building Code classifications for warehouse and office and how they had been the same until recently, so there wouldn't have been the need for a change in use permits in 1977. **3.** Alice Barkley, attorney for appellants, explained the evidence and that the space is lawful office space based on the electrical and sprinkler permits from 1977, otherwise there is nothing in the record that supports a determination that the lawful use is not office use. **Public Comment for the ZA:** **4.** Sue Hestor, attorney for San Franciscans for Reasonable Growth, said that the best records as to use were the Assessor's and that the appellants had not submitted such to the Board. **Public Comment for the Appellant:** **5.** Richard Johnson of Grubb & Ellis said that he supports the appellants.

(7) **APPEAL NO. 01-035**

ROBERT HEYMANN, dba "NATIONAL RENTAL CAR",
Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Zoning Administrator determination dated [January 23, 2001 that a Police Permit [Application Zoning Referral for a Driverless [Auto Rental business is recommended for [disapproval for failure to meet various [policies and objectives of the Planning Code [and to resolve the issues raised.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to **RESCHEDULE** the matter to **June 13, 2001**.

SPEAKERS: **1.** Brett Gladstone, attorney for the appellant, asked the Board for a one-month continuance so that his client could work on the compliance issues. **2.** Larry Badiner, ZA, objected to the continuance request, and noted that the appellant has not been doing everything he could to comply with the Planning Code, and that various safety issues remain unresolved like the existence of soapy water on the public sidewalk.

(8) **APPEAL NO. 01-057**

SAN FRANCISCANS FOR REASONABLE GROWTH,
Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[945 Bryant Street.
[Zoning Administrator determination dated [March 9, 2001 addressed to Steve Atkinson [of Baker & McKenzie concerning the [property owned by Bryant Springs LLC, that [the proposed new tenant, eTranslate, Inc. is [similar to the former tenant Pets.com which [was considered by the Planning Department [in 1999 to be a business service and not an [office use and that eTranslate also is [deemed a business service use allowed in [the Service, Light Industrial Zone and the [Industrial Protection Zone
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to **UPHOLD** the subject determination with **FINDINGS** prepared and revised by the Determination Holder's attorneys.

SPEAKERS: **1.** Larry Badiner, ZA, explained the genesis of this determination and how he had followed the decision of his predecessor Mary Gallagher. **2.** Sue Hestor, attorney for the appellant, said the file had no evidence upon which the ZA could have based his determination, e.g., plans or photos and that 24% of the building is used for offices. She said under the definition of office use in the Planning Code this was office use for which

$400,000.00 should be paid by the project sponsor to the City's affordable housing fund since it was more than 25,000 square feet of office space and that she was sure the owner is charging office-type rental fees and not warehouse rental fees. **3.** Tim Tosta, attorney for the property owner, said this is a business service use as was Sectorbase and he could use the same exhibits he had used in that hearing when the Board had upheld the similar use as business service and not as office use. He outlined the history of high tech businesses in the City and its growth after the enactment of Prop M in 1986 by the voters. **Public Comment for the ZA: 4.** Alice Barkley said that every business has sales and marketing divisions and their presence in this building did not make the building office space and that this is lawful NCU space in the SLI District.

There being no further business, President Chin adjourned the meeting at 8:09 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

too late to Post

WEDNESDAY, MAY 9, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **REQUESTS FOR REHEARING:**

ITEM A: 710 - 10th Avenue. Letter from John M. Sanger, attorney for Joan Coleman Spaargaren, appellant, requesting rehearing of Appeal No. 00-215 heard on February 7, 2001. Upon motion by Commissioner McInerney, the Board voted 3-2 (President Chin and Commissioner Cullum dissented) to overrule the unlawful demolition determination. Four votes are needed to overrule a department and the determination was **UPHELD.**

ITEM B: 690 - 698 De Haro Street. Letter from Christopher Cole, attorney for Barry Duetsch, appellant, requesting rehearing of Appeal Nos. 01-029 - 01-033 heard on April 4, 2001. Upon motion by Commissioner Cullum, the Board vored 2-2 (President Chin and Commissioner McInerney dissented, Vice President Saunders absent) to reschedule the matter to May 9, 2001. Three votes being necessary to reschedule any case, the motion **FAILED** and the hearing went forward. Afterwards, upon motion by Commissioner McInerney, the Board voted 3-1 (Commissioner Cullum dissented, Vice President Saunders absent) to **UPHOLD** the demolition permit and the four site permits, with **NEGATIVE DECLARATION FINDINGS** that were read into the record by Commissioner McInerney.

REQUEST FOR JURISDICTION BEYOND THE FIFTEEN-DAY APPEAL PERIOD:

ITEM C: 348 Pine Street. Letter from Toni Bell, property manager for Cresleigh Management, representing H-V Rocklin Development, Inc., requesting jurisdiction over tables and chairs permit (01TC-046) issued to Dillers Delicatessen.

Date issued	March 16, 2001
Last day to appeal	April 2, 2001
Request for jurisdiction	April 24, 2001

(4) **CONSENT ITEM:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(A) **APPEAL NO. 01-064**

HOWARD WONG, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[626 Geneva Avenue.
[Appeal for Refund of Penalty imposed on
[April 10, 2001.
[APPLICATION NO. 2001/04/06/6284.
[FOR HEARING TODAY.

5) **APPEAL NO. 00-036**

MATTHEW WONG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on March 2, 2000, of Taxicab
[Medallion #942.
[RESOLUTION NO. 2000-17.
[FOR REHEARING TODAY.

(6) **APPEAL NO. 00-197**

MACEDONIO GUERZON, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on October 13, 2000, of
[Taxicab Medallion #196.
[RESOLUTION NO. 2000-91.
[FOR HEARING TODAY.

(7) **APPEAL NO. 00-230**

ROBERT & MARILYN ALLEN, RALF & LESLEY JESCHKE,
WILLIAM & SHERRILL McGRANE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[222 El Camino Del Mar.
[Protesting issuance on October 31, 2000, to
[Robert and Althea Howe, permit to Alter a
[Building (construct solid and lattice fence at
[two sides of rear yard; construct potting
[shed on rear deck).
[APPLICATION NO. 2000/10/31/4533.
[PUBLIC HEARING CLOSED APRIL 4,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(8) **APPEAL NO. 01-058**

JIMMY CHU, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2838 Sacramento Street.
[Suspension on March 23, 2001, of permit to
[Alter a Building for failure to provide valid
[Section 311 Notification for construction off-
[street parking garage at front and expansion
[of existing building to the side and addition
[of new story on top.
[APPLICATION NO. 2000/08/11/7707S.
[FOR HEARING TODAY.

Items (9A) and (9B) shall be heard together

(9A) **APPEAL NO. 01-044**

EDWARD A. NICOLAUS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2582 Filbert Street.
[Protesting issuance on February 2, 2001, to
[William R. III and Margaret Hearst, permit to
[Demolish a Building (two-story single-family
[dwelling).
[APPLICATION NO. 9923990.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-045**

EDWARD A. NICOLAUS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2582 Filbert Street.
[Protesting issuance on February 2, 2001, to
[William R. III and Margaret Hearst, permit to
[Erect a Building (four-story single-family
[dwelling).
[APPLICATION NO. 9923991S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-042**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[696 Pennsylvania Street.
[Notice of Violation issued February 1, 2001 [of Planning Code Sections 102.2, 102.13, [227(p) and of two Notices of Special [Restriction for the property approved for use [as live/work and alleged to have been [converted to office use; the Planning [Department requests that the violations be [eliminated and documentation provided that [the violations have been abated within 15 [days of Notice of Violation letter.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-049**

F & F MISSION TECHNOLOGY CENTER LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1800 Mission Street.
[Zoning Administrator determination dated [February 20, 2001 addressed to Frank Chiu, [Director of the Department of Building [Inspection, requesting suspension of a site [permit issued November 4, 2000, for the [reason a Discretionary Review request had [been filed prior to the approval by the [Planning Department and the permit to [convert the armory to a telecom facility with [parking and fuel storage issued to Eikon [Capitol LP. The property is now owned by F [& F Mission Technology Center LLC.
[FOR HEARING TODAY.

(12) **APPEAL NO. V01-051**

JAMES FOGERTY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1299 Quesada Avenue.
[Denial on February 28, 2001, of Lot Size [Variance to subdivide an existing corner lot [into three lots.
[VARIANCE CASE NO. 2000.1201V.
[FOR HEARING TODAY.

ADJOURNMENT.

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Date posted: May 3, 2001

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ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

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WEDNESDAY, MAY 9, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders who left early at 11:25 p.m., Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); Paul Zarefsky, Deputy City Attorney for the Taxicab Commission (DCA); and Robert Feldman, Executive Secretary for the Board.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKER: President Chin explained the Board's request to the Mayor's Finance Office that a surcharge be added to building permit fees to raise funds to support the operation of the Board of Appeals.

(3) **REQUESTS FOR REHEARING:**

ITEM A: 710 - 10th Avenue. Letter from John M. Sanger, attorney for Joan Coleman Spaargaren, appellant, requesting rehearing of Appeal No. 00-215 heard on February 7, 2001. Upon motion by Commissioner McInerney, the Board voted 3-2 (President Chin and Commissioner Cullum dissented) to overrule the unlawful demolition determination. Four votes are needed to overrule a department and the determination was **UPHELD**.

ACTION: Upon motion by Commissioner Cullum, the Board voted 1-4 (President Chin, Vice President Saunders, Commissioner El Qadah, and Commissioner McInemey dissented) to deny the request for rehearing. The motion **FAILED**. Afterwards, upon motion by President Chin, the Board voted 4-1 (Commissioner Cullum dissented) to **GRANT** the request for rehearing, with the rehearing scheduled for **June 20, 2001**.

SPEAKERS: **1.** John Sanger, attorney for appellant/requestor, reported that the area problem has been resolved and that it would be unjust to deny the request and said that fairness to his client required the granting of this request for rehearing. 2. Laurence Kornfield, CBI, DBI, said that the department strongly urged the Board to let stand the decision upholding the imposition of penalties and it opposed the granting of a rehearing, saying there is nothing new to justify a rehearing and that DBI strives to be consistent in enforcing the rules. **Public Comment for Department: 3.** Stephen Williams said there were no extenuating circumstances here that would justify a rehearing and that it is a matter of equity; that there is nothing new or different that would justify a rehearing, that this was the

only time Building Inspection enforced the unlawful demolition provisions, and that the proposed amendments to the Code will be more stringent than the present regulations. **Public Comment for Requestor: 4.** Joe O'Donoghue said he supports the granting of a rehearing because the appellant is a novice in the field and did not understand the regulations concerning obtaining a demolition permit before demolishing the building.

ITEM B: 690 - 698 De Haro Street. Letter from Christopher Cole, attorney for Barry Deutsch, appellant, requesting rehearing of Appeal Nos. 01-029 - 01-033 heard on April 4, 2001. Upon motion by Commissioner Cullum, the Board voted 2-2 (President Chin and Commissioner McInerney dissented, Vice President Saunders absent) to reschedule the matter to May 9, 2001. Three votes being necessary to reschedule any case, the motion **FAILED** and the hearing went forward. Afterwards, upon motion by Commissioner McInerney, the Board voted 3-1 (Commissioner Cullum dissented, Vice President Saunders absent) to **UPHOLD** the demolition permit and the four site permits, with **NEGATIVE DECLARATION FINDINGS** that were read into the record by Commissioner McInerney.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin, Commissioner McInerney dissented) to grant the request for rehearing. Four votes being necessary to grant a rehearing, the motion **FAILED**, and the subject request was **DENIED**.

SPEAKERS: 1. Christopher Cole, attorney for the appellant/requestor, said he now has the transcript of the hearing and that the new evidence that justifies granting a rehearing is the decision by the Board of Supervisors to deny the parcel map application to the developer. **2.** Howard Wexler, attorney for the permit holder, said that there is no new evidence to justify a rehearing, and that the challenge to the subdivision map and negative declaration were both pending when the Board heard the appeal and the judge said there was no reason to set aside the negative declaration, and that the Planning Commission was upheld. He said that even without the parcel map the project can go forward and that there is no new evidence to justify a rehearing. **3.** Larry Badiner, ZA, reported that the Planning Commission had declined to take the project under Discretionary Review. Supervisors' action on the parcel map still allows a one-family building on the site which must meet the Residential Design Guidelines. **4.** Laurence Kornfield, CBI, DBI, said that the building permits are still valid. **5.** Judith Boyajian, DCA, said the subdivision map process has nothing to do with the Building Code which permits multiple buildings on a lot within the density limits of the Planning Code.

REQUEST FOR JURISDICTION BEYOND THE FIFTEEN-DAY APPEAL PERIOD:

ITEM C: 348 Pine Street. Letter from Toni Bell, property manager for Cresleigh Management, representing H-V Rocklin Development, Inc., requesting jurisdiction over tables and chairs permit (01TC-046) issued to Diller's Delicatessen.

Date issued	March 16, 2001
Last day to appeal	April 2, 2001
Request for jurisdiction	April 24, 2001

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner El Qadah dissented) to **GRANT** the request for jurisdiction, with the hearing to be scheduled for **June 20, 2001** at the time of filing.

SPEAKERS: 1. Toni Bell, requestor, said there was no notice posted on the deli and she had looked for one as she walked past daily. She added that the deli had put chairs and tables on the sidewalk without permits. She said that DPW had not made it clear to her what her appeals rights were. **2.** Jimmy Mogannam, operator of the subject deli, said he had posted the notice as required and that it had been posted by Mr. Kwong of DPW. He said the sidewalk chairs and tables are an important part of his business which he established in 1988.

ADOPTION OF FINDINGS:

ITEM D: 5 Freelon Street. Appeal 00-234. Hearing held May 2, 2001. Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to **OVERRULE** the Zoning Administrator's determination date

November 7, 2001 concerning the use of the building at 5 Freelon Street. The Board directed the appellant's counsel to prepare findings for adoption at a later date.

ACTION: Upon motion by President Chin, the Board voted 5-0 to **ADOPT** the amended findings.

SPEAKER: Alice Barkley, attorney for appellants, said she had sent copies of the findings for Appeal 00-234 which included amendments suggested by President Chin and Commissioner McInerney.

(4) **CONSENT ITEM:** Consent was given by the Department of Building Inspection, and the Board proceeded to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code.

(A) **APPEAL NO. 01-064**

HOWARD WONG, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[626 Geneva Avenue.
[Appeal for Refund of Penalty imposed on
[April 10, 2001.
[APPLICATION NO. 2001/04/06/6284.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to **REDUCE** the subject penalty to two times the regular fee.

SPEAKERS: Appellant's wife and daughter were present but did not testify.

(5) **APPEAL NO. 00-036**

MATTHEW WONG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on March 2, 2000, of Taxicab
[Medallion #942.
[RESOLUTION NO. 2000-17.
[FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 2-3 (President Chin, Vice President Saunders and Commissioner El Qadah dissented) to uphold the subject revocation. Four votes being necessary to overturn any departmental action, the motion **PASSED** and the subject revocation was **UPHELD**.

SPEAKERS: **1.** Paul Zarefsky, DCA, said that there had been quadruple violations in this case and it was a flagrant abuse of the system, with the appellant still not driving as required even with the matter before the Board. **2.** Cindy Lee, attorney for appellant, said that the declaration of the appellant she had submitted gave all the details of his family" medical problems which was the reason he had not driven his cab for the past five years, and that her client had made changes in his duty schedule as a deputy sheriff in good faith to try to meet the requirements. **Public Comment for the Taxicab Commission: 3.** Mark Gruberg of the United Taxicab Workers, said he had a medallion and drove the cab and that he supported the Commission's revocation because there are so many people on the list seeking a medallion while the appellant had a history of broken promises to drive to the Taxicab Commission and this Board, and that he had not driven as required.

(6) **APPEAL NO. 00-197**

MACEDONIO GUERZON, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on October 13, 2000, of
[Taxicab Medallion #196.
[RESOLUTION NO. 2000-91.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **OVERRULE** the subject revocation and **REPLACE** it with a 4-month suspension.

SPEAKERS: **1.** Paul Zarefsky, DCA, said the appellant had not driven under his medallion in years and had admitted it to the Taxicab Detail, saying he had spent his time caring for his son who has a learning deficiency,

though he could have driven nights or weekends and hadn't. **2.** John Mejia, attorney for appellant, said that the offense was not serious enough to justify revocation and asked the Board to reduce the penalty to a suspension. **Public Comment for Appellant: 3.** Nathan Dwiri of Yellow Cab said that the appellant had driven over 200 shifts since he became aware of the driving requirement for medallion holders. **4.** Joe O'Donoghue asked the Board to use compassion in this case and emphasized that the appellant had been a driver since 1967 and this fact stands for something. **5.** Joseph Fleischman said the appellant had been a driver longer than himself and that under the old rules one had a medallion for life without a requirement to drive, and that this is a case of lack of due process. **6.** Mark Gruberg of the United Taxi Workers said that this case is very different from the last one and that revocation may not be the most appropriate punishment here, though it is incredible that he did not know of the driving requirement after so many years of driving. **Public Comment for Taxicab Commission: 7.** Inspector Suslow of the Taxi Detail said that the only taxicab cases sent to the District Attorney are the ones involving crimes and not just infractions of the taxicab rules.

(7) **APPEAL NO. 00-230**

ROBERT & MARILYN ALLEN, RALF & LESLEY JESCHKE, WILLIAM & SHERRILL McGRANE, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[222 El Camino Del Mar.
[Protesting issuance on October 31, 2000, to [Robert and Althea Howe, permit to Alter a [Building (construct solid and lattice fence at [two sides of rear yard; construct potting [shed on rear deck).
[APPLICATION NO. 2000/10/31/4533.
[PUBLIC HEARING CLOSED APRIL 4, [2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to **UPHOLD** the permit on **CONDITION** that the subject lattice fence be eight feet in height from grade, with Mr. Butler's drawing attached to the final Notice of Decision. Afterwards, upon motion by Commissioner McInerney, the Board voted 2-3 (President Chin, Commissioner Cullum, and Commissioner El Qadah dissented) to uphold the subject potting shed with no revisions. Four votes being necessary to impose any revisions/conditions on a permit, the motion **PASSED** and the subject potting shed was **UPHELD** with no revisions.

SPEAKERS: 1. Andrew Zacks, attorney for the permit holder, said that four issues had been settled and only the potting shed was at issue now. He noted that the wall is to be lowered to accommodate the Allens and the McGranes. The Jeschkes still oppose the potting shed. **2.** James Stavoy, architect for the Allens and McGranes, said that there had been no settlement over the potting shed, and asked the Board to attach the agreed upon drawing to the Notice of Decision. **3.** Lesley Jeschke, co-appellant, said the wall with the potting shed above it will create a 12 foot high structure that will be unacceptable to her and a shed could be placed somewhere else in the Howe's rear yard which has four levels. **4.** Lewis Butler, architect for the permit holders, said the height of the potting shed could be reduced one or two feet. **5.** Larry Badiner, ZA, explained the Planning Code provisions for sheds in the rear yard, although this shed would be in the buildable envelope of the house and thus not subject to those limitations of the Code.

(8) **APPEAL NO. 01-058**

JIMMY CHU, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2838 Sacramento Street.
[Suspension on March 23, 2001, of permit to [Alter a Building for failure to provide valid [Section 311 Notification for construction of off-[street parking garage at front and expansion [of existing building to the side and addition [of new story on top.
[APPLICATION NO. 2000/08/11/7707S.
[FOR HEARING TODAY.

ACTION: This matter was **RESCHEDULED** to **June 20, 2001** prior to hearing.

MINUTES OF THE REGULAR MEETING OF THE BOARD OF APPEALS, MAY 9, 2001

Items (9A) and (9B) were heard together

(9A) **APPEAL NO. 01-044**

EDWARD A. NICOLAUS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2582 Filbert Street.
[Protesting issuance on February 2, 2001, to
[William R. III and Margaret Hearst, permit to
[Demolish a Building (two-story single-family
[dwelling).
[APPLICATION NO. 9923990.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-045**

EDWARD A. NICOLAUS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2582 Filbert Street.
[Protesting issuance on February 2, 2001, to
[William R. III and Margaret Hearst, permit to
[Erect a Building (four-story single-family
[dwelling).
[APPLICATION NO. 9923991S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** both the demolition and site permits.

SPEAKERS: **1.** Edward Nicolaus, appellant, said the fact that the permit holders had submitted photos from all directions except toward the south was suspicious since his property is to the south, and will be impacted by the proposed house. He also explained why he had not attended the meeting of the permit holders for the neighbors at which the project was described and concerns of the neighbors were expressed. **2.** Charles Olson, attorney for the permit holders, said the project meets the Code and the Residential Design Guidelines, and he described the modifications made in the plans to accommodate the neighbors who expressed their concerns and he noted that the neighborhood organization supported the proposal which is very unusual. In addition he said the lot was large enough to be divided into two lots each of which could be developed with a house. **Public Comment for Appellant:** None. **Public Comment for the Permit Holders:** **3.** James Fuller of 2585 Filbert said that the existing house on the site is an eyesore and a fire hazard and he welcomed its removal and the construction of the proposed house which is well designed, and that the proper processes have been followed for the permits. **4.** Joe O'Donoghue said the permit should be approved since we need to allow wealthy people to stay in the City and that the house has been designed by an award-winning architect. **5.** Alice Barkley said it was important that the Cow Hollow organization supported the proposal. **6.** Shirley Sullivan said she supports the project and looked forward to the new gardens that will be a pleasure to see.

(10) **APPEAL NO. 01-042**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[696 Pennsylvania Street.
[Notice of Violation issued February 1, 2001
[of Planning Code Sections 102.2, 102.13,
[227(p) and of two Notices of Special
[Restriction for the property approved for use
[as live/work and alleged to have been
[converted to office use; the Planning
[Department requests that the violations be
[eliminated and documentation provided that
[the violations have been abated within 15
[days of the Notice of Violation letter.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 1-4 (President Chin, Vice President Saunders, Commissioner El Qadah, and Commissioner McInerney dissented) to **UPHOLD** the subject determination. Two votes being necessary to uphold any departmental action, the motion **FAILED**. Afterwards, upon motion by

Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **OVERRULE** the subject determination with **FINDINGS** prepared by the appellant's attorney.

SPEAKERS: **1.** Larry Badiner, ZA, explained the violations of the Planning Code and how they had been investigated. **2.** Laurence Kornfield, CBI, DBI, explained the differences in ADA requirements for residential and commercial buildings. **3.** John Sanger, attorney for the owner, said this case was one involving a matter of principle and that there is no consistency in the Code and that the ZA was wrong. He said his client had done everything he could do to insure the legal use of the building. **Public Comment for the ZA: 4.** Richard Millet of the Potrero Hill Boosters Association said the building had not been used properly and that no parking had been required of it nor school fees required, and he noted the building had been maxed-out as to its height, and was out of scale with the neighborhood. 5. Sue Hestor said the lack of parking spaces is unfair to legitimate businesses in the area. **Public Comment for Appellant: 6.** Joe O'Donoghue said only four of 48 units were at issue and with the Chow case only one out of 33, and that this kind of building was not cheaper to build than regular residential ones. **7.** Alice Barkley said that transportation analyses showed that live-work buildings generated only 3.8 trips per day and were not a burden to the neighborhood.

(11) **APPEAL NO. 01-049**

F & F MISSION TECHNOLOGY CENTER LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1800 Mission Street.
[Zoning Administrator determination dated [February 20, 2001 addressed to Frank Chiu, [Director of the Department of Building [Inspection, requesting suspension of a site [permit issued November 4, 2000, for the [reason a Discretionary Review request had [been filed prior to the approval by the [Planning Department of the permit to [convert the armory to a telecom facility with [parking and fuel storage issued to Eikon [Capitol LP. The property is now owned by F [& F Mission Technology Center LLC.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **CONTINUE** the matter to **May 30, 2001**, with the public hearing **CLOSED**.

SPEAKERS: **1.** Larry Badiner, ZA, apologized for the error made by the Planning Department which led to the need for this appeal. He explained how the permit was approved after a DR request had been filed and ignored by the Department. **2.** Michael Burke, attorney for appellant, explained the chronology of events and how his client had relied on the issued permit when it bought the property for 30 million dollars and how it costs half a million a month to continue the project. **3.** Sue Hestor, attorney for the Mission Anti-Displacement Coalition (real party in interest), described her client's efforts to seek a DR hearing by the Planning Commission and that it was not fair for her client to pay for the Planning Department's error. She also noted that at the Planning Commission her client only needed four out of seven votes to prevail while at the Board four out of five are needed, making a DR hearing very significant to them. **Public Comment for the ZA: 4.** Eric Quezada, of the Mission Anti-Displacement Coalition (MAC), said he is extremely disappointed with the permit process, and said Supervisor Maxwell understood their concerns since her district has many such installations. He said his group had done nothing wrong here and that the area's health was at stake. **5.** Antonio Diaz explained the health issues associated with the generators to be installed, which produce nitrogen dioxide, which is hazardous to the health of residents in the area. **6.** Amie Fishman said she represents families, seniors and occupants of SRO's in the community which need a DR hearing at the Planning Commission in order to defend the health and safety of the people who have a right to have their say. Jaime Bardacke said she encouraged all the Commissioners to grant their request for a DR hearing to give them their inputs concerning the health issues. **7.** Marc Soloman said that server farms suck up too much electricity. **8.** Robert Haaland said the issue is whether to allow a DR hearing to happen. If it is done right the Board will put people before profits. **9.** Paola Zuniga said she works in the Mission and supports a DR on this proposed server farm, and she wants to have input on development plans in her neighborhood. **10.** Aimee Patten said she works in the Mission and wants a DR hearing at the Planing Commission. **11.** Christina Olargiel said she is concerned with server farm use and she encourages the Board to support the public process. **12.** Chris Selig said even the developer wouldn't deny their right to due process and the health of the community is worth slowing

the process to check health issues and to allow for research to be presented. **Public Comment for the Appellant: 13.** Winchell Hayward said he supports the project considering the Armory has been vacant for so long, and that the project will benefit the area. **14.** Roberto Estrada, member of the Mission Merchant's Association and other groups, said the area will benefit from the project and that enough hearings have taken place already on this project. He also said that he hated to delay the project because various uses for the Armory have been disputed for many years.

(12) **APPEAL NO. V01-051**

JAMES FOGERTY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1299 Quesada Avenue.
[Denial on February 28, 2001, of Lot Size
[Variance to subdivide an existing corner lot
[into three lots.
[VARIANCE CASE NO. 2000.1201V.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator and **GRANT** the subject variance.

SPEAKERS: 1. Larry Badiner, ZA, explained that he denied this variance application for the reason that there was not sufficient hardship to meet the Planning Code requirement. **2.** Dan Sullivan, agent for appellant, asked that the Board overrule the decision of the ZA, and explained how all five requirements are met, and that the previous ZA did not require public hearings where the Code discrepancy was less 10%, as here. **Public Comment for ZA:** None. **Public Comment for the Appellant: 3.** Dorice Murphy supports the project and welcomes more homes that are designed for multi-generational families, with bedrooms on both floors. **4.** Alice Barkley said that if denied, the lot could be split up into two lots and each developed with a monster home, while allowing three lots only small, affordable homes could be built in character with the neighborhood. **5.** Joe O'Donoghue said that this is an opportunity site for three appropriate houses and that the variance should be approved, and that small houses can be approved on them.

There being no further business, President Chin adjourned the meeting at 11:48 p.m.

Arnold Y.R. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MAY 23, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE (FORMERLY 301 POLK STREET)

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

MAY 2 1 2001

SAN FRANCISCO
PUBLIC LIBRARY

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **REQUESTS FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:**

ITEM A: 952-954 Ashbury Street. Letter from Dorothy Dube and Mark Slomoff requesting that the Board take jurisdiction over Building Permit Application No. 2001/02/07/1598 issued to Ted Bartlett for interior alterations.

Date issued	March 27, 2001
Last day to appeal	April 11, 2001
Request for jurisdiction	May 8, 2001

ITEM B: 642 Carolina Street. Letter from Michael R. Frey, requesting that the Board take jurisdiction over Building Permit Application No. 2000/05/22/0620S issued to Noe Vista LLC, to remodel an existing garage and enlarge it to a three-story over garage, single-family dwelling, with two car parking.

Date issued	April 20, 2001
Last day to appeal	May 7, 2001
Request for jurisdiction	May 9, 2001

(4) **APPEAL NO. 01-066**

PATRICIA A. McCOLM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[575 Miramar Avenue.
[Protesting issuance on April 10, 2001, to [Marc Balistreri, permit to Alter a Building [(repair dry rot of exterior walls and replace [stucco)
[APPLICATION NO. 2001/04/10/6491.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000, [to K.M. Lo, permit to Erect a Building (six [unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7, [2001.
[FOR FURTHER CONSIDERATION TODAY.

Items (6A) and (6B) shall heard together

(6A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. &
DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Erect a Building (25 [live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. &
DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

Items (7A) and (7B) shall heard together

(7A) **APPEAL NO. 01-037**

DOGPATCH NEIGHBORHOOD ASSN. & POTRERO BOOSTERS NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[601 Mariposa Street.
[Protesting issuance on January 26, 2001, to [Neil Mussallem, permit to Demolish a [Building (vacant auto body repair shop).
[APPLICATION NO. 2000/08/25/8922.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-038**

DOGPATCH NEIGHBORHOOD ASSN. & POTRERO BOOSTERS NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[601 Mariposa Street.
[Protesting issuance on January 26, 2001, to [Tennessee Street Lofts, permit to Erect a [Building (18 live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

Items (8A) and (8B) shall heard together

(8A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., permit to Demolish a Building [(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., permit to Erect a Building (eight [live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-060**

PARAIC O'DONOGHUE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[182 Brewster Street.
[Protesting issuance on March 19, 2001, to [Patrick J. Fellowes, permit to Erect a [Building (three-story single-family dwelling).
[APPLICATION NO. 2000/03/13/4167S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-063**

VICTOR YEW, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1270 Green Street.
[Protesting issuance on March 19, 2001, to [Mike Kantor, permit to Alter a Building [(remodel kitchen and two bathrooms; third [story horizontal addition with stairs).
[APPLICATION NO. 2001/05/9293.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-065**

DAVID BAKER & JANE MARTIN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2144 Folsom Street.
[Protesting issuance on March 28, 2001 to [Raymond Wong, permit to Alter a Building [(new property line concrete masonry unit [walls; new deck, steel sash windows, [parapet and railing; remove two interior non-[load bearing partitions)
[APPLICATION NO. 2001/02/27/3047.
[FOR HEARING TODAY.

(12) **APPEAL NO. 01-067**

MICHAEL HAMMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[748 Innes Avenue.
[Protesting issuance on March 29, 2001, to [Banya 2000 LLC, permit to Erect a Building [(three-story building with garage, spa, [offices and two apartments)
[APPLICATION NO. 9924594S.
[FOR HEARING TODAY.

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TRUDY M. BORN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[522 Shotwell Street.
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MORGAN F. BENEDICTO, Appellant
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[Denial on March 20, 2001, of Minimum Lot [Size, Rear Yard, and Front Yard Variance [sought to subdivide a previously subdivided [3,150 s.f. corner parcel into two lots with the [new proposed vacant lot equaling [approximately 1,260 s.f., and construct a [new three story, single family dwelling on [the proposed subdivided vacant lot.
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[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: May 17, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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MINUTES OF THE REGULAR MEETING

OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MAY 23, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE (FORMERLY 301 POLK STREET)

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum who left early at 8:58 p.m., Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); Isolde Wilson of the Planning staff representing Zoning Administrator Larry Badiner; and Robert Feldman, Executive Secretary for the Board.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKER: Patricia McColm addressed several matters of public inquiry concerning policies of the Board regarding the Americans with Disabilities Act (ADA) and related California statutes, on admission and exclusion of documentation, extra-judicial and other material from the media, and other matters.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKER: President Chin said he would not comment on Ms McColm's public comment.

(3) **REQUESTS FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:**

ITEM A: 952-954 Ashbury Street. Letter from Dorothy Dube and Mark Slomoff requesting that the Board take jurisdiction over Building Permit Application No. 2001/02/07/1598 issued to Ted Bartlett for interior alterations.

Date issued	March 27, 2001
Last day to appeal	April 11, 2001
Request for jurisdiction	May 8, 2001

ACTION: This matter was **RESCHEDULED** to **May 30, 2001** prior to consideration at the request of the requestor.

ITEM B: 642 Carolina Street. Letter from Michael R. Frey, requesting that the Board take jurisdiction over Building Permit Application No. 2000/05/22/0620S issued to Noe Vista LLC, to remodel an existing garage and enlarge it to a three-story over garage, single-family dwelling, with two car parking.

Date issued	April 20, 2001
Last day to appeal	May 7, 2001
Request for jurisdiction	May 9, 2001

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **DENY** the request for jurisdiction.

SPEAKERS: **1.** Michael Frey, requestor, said his property is within 100 feet of the subject property and that his request for DR by the Planning Commission had been denied on April 4, 2001, and he had not filed in time because he was with his mother at the time of her death and was detained out of town making final arrangements. **2.** Gerry Agosta, agent for permit holder, asked the Board to deny the request because he has been delayed a year by the requestor's actions and that the permit holder has fulfilled the Section 311 notification requirement; the Planning Commission held a hearing and declined to take under discretionary review. **3.** Isolde Wilson for ZA explained that no Planning notice was required for issuance of permits, only upon application under Section 311. **4.** Laurence Kornfield, CBI, DBI, explained the Building Code notice requirements for issuance to abutting properties.

(4) **APPEAL NO. 01-066**

PATRICIA A. McCOLM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[575 Miramar Avenue.
[Protesting issuance on April 10, 2001, to
[Marc Balistreri, permit to Alter a Building
[(repair dry rot of exterior walls and replace
[stucco)
[APPLICATION NO. 2001/04/10/6491.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit.

SPEAKERS: **1.** President Chin said he overruled all of Ms. McColm's objections and denied all her requests. **2.** Patricia McColm, appellant, described how the permit holder harassed her and she held aloft a tape recorder and played loudly a tape of indistinguishable voices which she said was a threat made to her. She asked the Board to restrict hours of construction on the subject property and to require the project to be completed in a certain time so as to minimize its affect on her as required by the ADA, as she is disabled. **3.** Marc Balistreri, permit holder, explained the project, work on the foundation and stucco of his one-family house, and how the delays caused by the appellant have impacted him. He explained how finding additional dry rot necessitated a new permit for repairs, which is the subject of this appeal. He said that he has been delayed because the appellant has called the Police repeatedly on him and that he knows the officers at the local station. **No public comment for either side.**

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000,
[to K.M. Lo, permit to Erect a Building (six
[unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: This matter was **RESCHEDULED** to **May 30, 2001** prior to hearing at the request of the permit holder.

Items (6A) and (6B) were heard together

(6A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Erect a Building (25 [live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

ACTION: Both matters were **RESCHEDULED** to **September 19, 2001** prior to hearing with the agreement of the parties.

Items (7A) and (7B) were heard together

(7A) **APPEAL NO. 01-037**

DOGPATCH NEIGHBORHOOD ASSN. & POTRERO BOOSTERS NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[601 Mariposa Street.
[Protesting issuance on January 26, 2001, to [Neil Mussallem, permit to Demolish a [Building (vacant auto body repair shop).
[APPLICATION NO. 2000/08/25/8922.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-038**

DOGPATCH NEIGHBORHOOD ASSN. & POTRERO BOOSTERS NEIGHBORHOOD ASSN., Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[601 Mariposa Street.
[Protesting issuance on January 26, 2001, to [Tennessee Street Lofts, permit to Erect a [Building (18 live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

ACTION: Both matters were **RESCHEDULED** to **October 3, 2001** prior to hearing with the agreement of the parties.

Items (8A) and (8B) were heard together

(8A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., permit to Demolish a Building [(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to
[Armax, Inc., permit to Erect a Building (eight
[live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

ACTION: Both matters were **RESCHEDULED** to **September 19, 2001** prior to hearing with the agreement of the parties.

(9) **APPEAL NO. 01-060**

PARAIC O'DONOGHUE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[182 Brewster Street.
[Protesting issuance on March 19, 2001, to
[Patrick J. Fellowes, permit to Erect a
[Building (three-story single-family dwelling).
[APPLICATION NO. 2000/03/13/4167S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to **CONTINUE** the matter to **June 13, 2001**, with a directive for DBI to investigate the survey issue by conducting a site visit to the subject property, with the public hearing **CLOSED**.

SPEAKERS: **1.** Paraic O'Donoghue, appellant, said the new building encroaches on his property and the Board should require it to be cut back to meet setbacks of neighbors. **2.** Patric Fellowes, permit holder, said his building is the same as the appellant's. **3.** Laurence Kornfield, CBI, DBI, said that surveys are often required by DBI and must be paid for by the permit applicant. **Public Comment for Appellant:** **4.** Michael Murray said the appellant had built his houses all the same and the survey shows the permit holder's house projects 1 foot 4 inches into the rear yard. He said the permit holder had begun work before the 15-day appeal period was over. **5.** Joe O'Donoghue said that the permit holder is an experienced builder and knows the rules; he asked the Board to cut off the offending portion of the building or should be required to seek a variance. **Public Comment for the Permit Holder:** None.

(10) **APPEAL NO. 01-063**

VICTOR YEW, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1270 Green Street.
[Protesting issuance on March 19, 2001, to
[Mike Kantor, permit to Alter a Building
[(remodel kitchen and two bathrooms; third
[story horizontal addition with stairs).
[APPLICATION NO. 2001/05/9293.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit.

SPEAKERS: **1.** Victor Yew, appellant, asked the Board to disapprove the permit because the variance notice process was improper. Apparently the materials for the variance hearing for the subject property were switched for those for a different property and as a result the neighbors within 300 feet were not properly notified of the variance hearing. He said he had seen the poster notice on the property and he had waited six months before he mentioned to Planning the wrongly stuffed envelopes. He said he works in DBI as a plan checker and has access to the computer which shows appeals and other procedures for all permits, though he did not use his special insider position in any way. **2.** Gary Jerabeck, architect for the permit holder, said he had contacted Sharon Young at Planning and was told no Section 311 notice was required for this project. He said there had been a poster notice on the property and there had been no objections to the project from the neighbors except for the

appellant. **3.** Isolde Wilson for the ZA said it was clear all notice envelopes were stuffed incorrectly and there had been no complaints other than the appellant's. **No public comment on either side.**

(11) **APPEAL NO. 01-065**

DAVID BAKER & JANE MARTIN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2144 Folsom Street.
[Protesting issuance on March 28, 2001 to [Raymond Wong, permit to Alter a Building [(new property line concrete masonry unit [walls; new deck, steel sash windows, [parapet and railing; remove two interior non-[load bearing partitions)
[APPLICATION NO. 2001/02/27/3047.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin abstained) to **RECUSE** President Chin. Afterwards, upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin recused) to **UPHOLD** the subject permit.

SPEAKERS: 1. David Baker, co-appellant, explained his objection to the project. **2.** Alice Barkley, attorney for the permit holder, said the work proposed would abate violations of the Fire Code and prepare the building for new tenants and that ADA access would depend on what the new tenancies are. **3.** Laurence Kornfield, CBI, DBI, explained that federal and state access rules do not apply to this project. **4.** Jane Martin, co-appellant, questioned the statement that proposed work is just to abate violations since a new deck will be built and new windows are being installed. **No public comment for either side.**

(12) **APPEAL NO. 01-067**

MICHAEL HAMMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[748 Innes Avenue.
[Protesting issuance on March 29, 2001, to [Banya 2000 LLC, permit to Erect a Building [(three-story building with garage, spa, [offices and two apartments)
[APPLICATION NO. 9924594S.
[FOR HEARING TODAY.

ACTION: This matter was **WITHDRAWN** by the appellant at the hearing.

SPEAKER: Michael Hamman, appellant, said he and the permit holder had reached an agreement and he therefore withdrew his appeal. He thanked the Board which he said had performed its function well in his case and he thanked the Board for all its efforts.

(13) **APPEAL NO. 01-046**

TRUDY M. BORN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[522 Shotwell Street.
[Zoning Administrator determination dated [February 9, 2001 denying request for [extension of the variance granted February [10, 1997 to legalize the two-unit residential [building without providing an additional [independently accessible off-street parking [space. The variance decision expired [February 10, 2000.
[VARIANCE CASE NO. 96.781V.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **OVERRULE** the subject determination with a **FINDING** that there are extraordinary circumstances in this case, and to grant a two-year (one-year retroactive) extension of the variance decision with a new expiration date of February 9, 2002, with the

CONDITION that the appellant apply for and act on the permits needed to carry out the purpose of the variance decision.

SPEAKERS: **1.** Isolde Wilson for the ZA said that the three-year limit on variances is to insure conditions in the neighborhood have not changed and the three-year limit is similar to the eighteen-month limit on conditional use authorizations. **2.** Kristi Wilson, agent for appellant, said the appellant was in her eighties, and now had the money to proceed with the project. **No public comment for either side.**

(14) **APPEAL NO. 01-048**

CLIPPER STREET ASSOCIATES, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[672 and 676 Clipper Street.
[Zoning Administrator determination dated [February 21, 2001, requiring the owners to [sell or rent the units at 120% of median [income as suggested by the Mayor's Office [of Housing and explaining that a conditional [use application may be filed to request the [Planning Commission to modify the [conditions of Planning Commission Motion [No. 14377 upon which the Zoning [Administrator's action was based.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (President Chin abstained) to **RECUSE** President Chin. Afterwards, upon motion by Vice President Saunders, the Board voted 4-0-1 (President Chin recused) to **CONTINUE** the matter to **May 30, 2001**, requesting that Mr. Sanger meet with the Zoning Administrator to try to reach an agreement.

SPEAKERS: **1.** John Sanger, attorney for appellant, said that the ZA has failed to make a determination in this matter and asked the Board to make one. The Planning Commission does have guidelines for affordable housing which he said provide a target and not an absolute requirement, and that there is no specific condition in the Commission's motion, just two mentions in the findings which is not the same as conditions of approval. There were sample conditions existing then and they were not used. **2.** Isolde Wilson for the ZA said that the Commission often leaves conditions unexpressed but implied, and this is such a case. She said the Commission required the affordability to last fifty years and that this Commission affordability is 60% of median income. **3.** Joe La Torre of the Mayor's Office of Housing explained the affordability guidelines that were developed by his office and Planning during the early 90's and that they were followed. **Public Comment for Appellant:** **4.** Alice Barkley said she had worked on the project and that the density of the project was controversial and there had been long negotiations with the ZA which resulted in reduced density and a view corridor, and that there had been no Commission policy in 1997 and the Commission imposed affordability requirements on a case-by-case basis. **5.** Judith Boyajian, DCA, said the Board could uphold the determination or overrule it with four votes but could not change 120% to 80% or 90%.

(15) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[699 Paris Street.
[Denial on March 20, 2001, of Minimum Lot [Size, Rear Yard, and Front Yard Variance [sought to subdivide a previously subdivided [3,150 s.f. corner parcel into two lots with the [new proposed vacant lot equaling [approximately 1,260 s.f., and construct a [new three story, single family dwelling on [the proposed subdivided vacant lot.
[VARIANCE CASE NO. 2000.870V
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 to **RESCHEDULE** the matter to **June 20, 2001**.

SPEAKERS: **1.** Morgan Benedicto, appellant, thanked the Board for its advice about the importance of having a five members present, and then accepted the advice by requesting that the matter be rescheduled so that Commissioner Cullum could be present. **2.** Peter Misthos, a neighbor, objected to the rescheduling since he had been waiting for several hours for the case to be called.

(16) **APPEAL NO. 01-061**

PIER 39 LIMITED PARTNERSHIP, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[Pier 39.
[Zoning Administrator determination dated [March 20, 2001 addressed to John Sanger [representing Pier 39 Limited Partnership; [that a new conditional use authorization [would be required for certain recreational [activities that require admission fees, which [may not be appropriate uses for the public [Waterfront Park as they are attractions that [utilize public open space for private [monetary benefit.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner Cullum absent) to **OVERRULE** the subject determination on **CONDITION** that the appellant seek clarification of all the approved uses in the original conditional use authorization, with **FINDINGS** to be adopted at a later date.

SPEAKERS: **1.** Isolde Wilson for the ZA explained the determination based on the original Conditional Use (CU) Authorization for Pier 39 which did not address the trampoline/bungee attraction. She said there was no attempt to delineate all the possible activities on Pier 39 and the adjacent park space but this one charges which makes it subject to a new CU process. **2.** John Sanger, attorney for appellant, said there were eight employees present who wanted to testify on behalf of the appellant, as well as Patrick O'Brien, the operator of the trampoline company. He said this determination is bizarre and should be overruled. He said approval of this company was just part of the application to the Bay Conservation and Development Commission which has the final say on uses beside the bay. **3.** Patrick O'Brien said he has a month to month lease from Pier 39 and that he employs eight students and serves youth and the disabled with a wholesome, safe, activity which is very much appreciated and supported by the public. **No public comment for either side.**

There being no further business, President Chin adjourned the meeting at 10:00 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 576-0700

REGULAR MEETING OF THE SAN FRANCISCO BOARD OF APPEALS

WEDNESDAY, MAY 30, 2001

5:30 P.M., CITY HALL, ROOM 416

1 DR. CARLTON B. GOODLETT PLACE (FORMERLY 301 POLK STREET)

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **REQUEST FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:**

ITEM A: 952-954 Ashbury Street. Letter from Dorothy Dube and Mark Slomoff requesting that the Board take jurisdiction over Building Permit Application No. 2001/02/07/1598 issued to Ted Bartlett for interior alterations.

Date issued	March 27, 2001
Last day to appeal	April 11, 2001
Request for jurisdiction	May 8, 2001

DOCUMENTS DEPT.

MAY 3 0 2001

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ADOPTION OF FINDINGS:

ITEM B: 1299 Quesada Avenue. On May 9, 2001, after public hearing, upon motion by President Chin, the Board voted 4-0 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator and **GRANT** the lot size variance to subdivide an existing corner lot into three lots.

ITEM C: Pier 39. On May 23, 2001, after public hearing, upon motion by Commissioner El Qadah, the Board voted 4-0 (Commissioner Cullum absent) to **OVERRULE** the Zoning Administrator with a condition to allow the trampoline and bungee business to remain at Pier 39 without a conditional use authorization.

(4) **APPEAL NO. 00-212**

MYRA HOM SHORT, Appellant
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent

[653 Irving Street.
[Denial on October 27, 2000, of permit to
[Remove and Replace One Tree.
[ORDER NO. 172,618.
[FOR REHEARING TODAY.

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000,
[to K.M. Lo, permit to Erect a Building (six
[unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-049**

F & F MISSION TECHNOLOGY CENTER LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1800 Mission Street.
[Zoning Administrator determination dated [February 20, 2001 addressed to Frank Chiu, [Director of the Department of Building [Inspection, requesting suspension of a site [permit issued November 4, 2000, for the [reason a Discretionary Review request had [been filed prior to the approval by the [Planning Department and the permit to [convert the armory to a telecom facility with [parking and fuel storage issued to Eikon [Capitol LP. The property is now owned by F [& F Mission Technology Center, LLC.
[PUBLIC HEARING CLOSED MAY 9, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-048**

CLIPPER STREET ASSOCIATES, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[672 and 676 Clipper Street.
[Zoning Administrator determination dated [February 21, 2001, requiring the owners to [sell or rent the units at 120% of median [income as suggested by the Mayor's Office [of Housing and explaining that a conditional [use application may be filed to request the [Planning Commission to modify the [conditions of Planning Commission Motion [No. 14377 upon which the Zoning [Administrator's action was based.
[FOR FURTHER CONSIDERATION TODAY.

(8) **APPEAL NO. 00-252**

JOHN O'REILLY, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL.

[129 Randall Street.
[Denial on December 11, 2000, of permit to [Erect a Building (three-story two unit [dwelling).
[APPLICATION NO. 9911578S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-075**

DESMOND HAYES, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[3352-54 Clay Street.
[Denial on April 18, 2001, of permit to Alter a [Building (rehabilitate and remodel entire [building; add garage; restore legal use of [building to single-family dwelling with one [accessory unit at lower level)
[APPLICATION NO. 2000/03/13/4135S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-069**

BETTY H. da COSTA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1247 - 38th Avenue.
[Protesting issuance on March 30, 2001, to [Kirk Sujishi, permit to Alter a Building (new [rear 10 x 17 deck no higher than three feet [from grade).
[APPLICATION NO. 2001/03/30/5706.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-073**

CHARLES & JANE ELIASON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1117 Ocean Avenue.
[Protesting issuance on April 10, 2001 to [Roman Knop, permit to Demolish a retail [building.
[APPLICATION NO. 2000/07/25/6065.
[FOR HEARING TODAY.

(12) **APPEAL NO. 01-074**

CAROL SMITH & JACK RUSSO, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[3320 Jackson Street.
[Protesting issuance on April 11, 2001, to [Barry and Marie Lipman, permit to Alter a [Building (expand master bedroom with addi-[tion of toilet room with exhaust fan and down [light; pop-out not to exceed 1'-6" from [existing building; width of pop-out [approximately 5'-2").
[APPLICATION NO. 2001/03/15/4400.
[FOR HEARING TODAY.

(13) **APPEAL NO. 01-076**

JOHN DOO, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[579 - 17th Avenue.
[Protesting issuance on April 20, 2001, to [Guo-Bao He, permit to Erect a Single-Family [Dwelling.
[APPLICATION NO. 2000/05/09/9456S.
[FOR HEARING TODAY.

(14) **APPEAL NO. V01-071**

STUART FUSS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[445 - 461 Oak Street.
[Denial on April 9, 2001, of Lot Width, Lot [Size, Open Space, and Exposure Variances [(subdivide an existing 82 x 120 lot with four [existing residential buildings into four [separate lots, each with one residential [building).
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: May 24, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

-merican sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Jonnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmenta illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to disc meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings reminded that other attendees may be sensitive to various chemical-based products. Please help the City t accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points alon McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Norieg and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessibl services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, counci and other agencies of the City and County exist to conduct the people's business. This ordinance assures th deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Cod or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinanc Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-772 fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from th Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities th influence or attempt to influence local legislative or administrative action that they may be required by the San Francis Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For mo information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, w www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MINUTES OF THE REGULAR MEETING - WEDNESDAY, MAY 30, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Rafael Torres-Gil, Senior Building Inspector, Department of Building Inspection (SBI, DBI); Larry Badiner, Zoning Administrator; and Robert Feldman, Executive Secretary for the Board.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify during the meeting.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: **1.** Mark Gruberg asked the Board to uphold decisions of the Taxicab Commission revoking medallions for failure to meet driving requirements for holders. In the Wong case he said the holder was employed as a deputy sheriff and could have driven as required but hadn't. **2.** Winchell Hayward spoke in support of the appellant in Appeal 01-049 for which the hearing had been held and closed May 9, 2001. He requested the suspension be lifted and the conditions recommended by the Planning Commission be imposed, in order to allow for the protection and maintenance of the Armory, a designated landmark.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: **1.** President Chin asked the Executive Secretary to contact Robert Passmore about becoming an advisor to the Executive Secretary. 2. Commissioner McInerney supported the idea.

(3) **REQUEST FOR JURISDICTION BEYOND FIFTEEN-DAY APPEAL PERIOD:**

ITEM A: 952-954 Ashbury Street. Letter from Dorothy Dube and Mark Slomoff requesting that the Board take jurisdiction over Building Permit Application No. 2001/02/07/1598 issued to Ted Bartlett for interior alterations.

Date issued	March 27, 2001
Last day to appeal	April 11, 2001
Request for jurisdiction	May 8, 2001

ACTION: This matter was **RESCHEDULED** to **June 20, 2001** prior to consideration at the request of both parties.

ADOPTION OF FINDINGS:

ITEM B: 1299 Quesada Avenue. On May 9, 2001, after public hearing, upon motion by President Chin, the Board voted 4-0 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator and **GRANT** the lot size variance to subdivide an existing corner lot into three lots.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **RESCHEDULE** the matter to **June 13, 2001**.

SPEAKER: Commissioner McInerney requested that the Executive Secretary phone the appellant's consultant to discuss how the proposed findings can be improved and made suitable for adoption.

ITEM C: Pier 39. Appeal No. 01-061. On May 23, 2001, after public hearing, upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner Cullum absent) to **OVERRULE** the Zoning Administrator with a condition to allow the trampoline and bungee business to remain at Pier 39 without a conditional use authorization.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum abstained) to **ADOPT** the subject findings.

SPEAKERS: None.

(4) **APPEAL NO. 00-212**

MYRA HOM SHORT, Appellant
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent

[653 Irving Street.
[Denial on October 27, 2000, of permit to
[Remove and Replace One Tree.
[ORDER NO. 172,618.
[FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **UPHOLD** the denial on **CONDITION** that the Department of Public Works undertake the root pruning of the subject tree, and on **CONDITION** that the appellant prune said tree within 90 days.

SPEAKERS: 1. Myra Hom Short, appellant, said if the subject tree is trimmed it will die, and that branches fell off of it in 1996 during a storm. **2.** Judith Boyajian, DCA, said that if someone is injured by falling street trees the City has no liability because of its sovereign immunity.

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000,
[to K.M. Lo, permit to Erect a Building (six
[unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **CONTINUE** the matter to **June 20, 2001**, with a directive that negotiations take place between the appellants, the permit holder, the Department of Building Inspection, the Zoning Administrator, and the Department of Real Estate.

SPEAKERS: 1. Jeremy Paul, agent for the permit holder, reported on the meeting with the representative of the Lady Shaw Senior Center as requested by the Board. **2.** Annie Chung, director of the Lady Shaw Senior Center asked that those in the audience in support of the Center raise their hands and twenty people raised hands. She said her Board will not meet until July and they must make a final decision on their position regarding the project. **3.** Jerry Lee spoke for the appellants and complained they weren't included in the meeting and there has been no recent communication with the permit holder. He said the 10 foot easement is too small for the Center's vans to get through and maneuver in, and side mirrors will be damaged. **4.** Rafael Torres-Gil, SBI, DBI, explained what a site permit is and that addenda may not be appealed to the Board. He also said that the vans area needs extensive space and certain grade, neither of which are adequate on this site for the vans. **5.** Larry Badiner, ZA, said that vans are 20 to 22 feet long.

(6) **APPEAL NO. 01-049**

F & F MISSION TECHNOLOGY CENTER LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1800 Mission Street.
[Zoning Administrator determination dated [February 20, 2001 addressed to Frank Chiu, [Director of the Department of Building [Inspection, requesting suspension of a site [permit issued November 4, 2000, for the [reason a Discretionary Review request had [been filed prior to the approval by the [Planning Department and the permit to [convert the armory to a telecom facility with [parking and fuel storage issued to Eikon [Capitol LP. The property is now owned by F [& F Mission Technology Center, LLC.
[PUBLIC HEARING CLOSED MAY 9, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **OVERRULE** the subject determination, with **ADOPTION** of the findings and conditions as submitted by the appellant's attorney which were part of the Planning Commission's motion regarding this project at the Advisory Discretionary Review (DR) hearing held on May 24, 2001.

SPEAKER: 1. Larry Badiner, ZA, described the Advisory DR hearing held by the Planning Commission on the new armory use, and how all the parties struggled to reach an agreement. He recommended that the Board overrule his suspension of the permit and adopt the conditions of approval suggested by the Planning Commission which are acceptable to the appellant. **2.** Michael Burke, attorney for the appellant, said that the Mission Technology Center (MTC) is the new owner of the property and he also described the Planning Commission's hearing and the proposed conditions his client would accept. He said there is not complete agreement on all the conditions proposed, but all had been presented to the Planning Commission and the Mission Anti-Displacement Coalition (MAC) asked for additional conditions. The Planning Commission rejected MAC's conditions and recommended the Board adopt theirs. **3.** Sue Hestor, attorney for MAC, explained the effects of the facility on the power situation in the City and how it would result in the Hunter's Point powerhouse being expanded to the detriment of the people in the Bay View Hunter's Point area. She said the people in the Mission were in support of the Bay View on the power issue.

(7) **APPEAL NO. 01-048**

CLIPPER STREET ASSOCIATES, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[672 and 676 Clipper Street.
[Zoning Administrator determination dated [February 21, 2001, requiring the owners to [sell or rent the units at 120% of median [income as suggested by the Mayor's Office [of Housing and explaining that a conditional [use application may be filed to request the [Planning Commission to modify the [conditions of Planning Commission Motion [No. 14377 upon which the Zoning [Administrator's action was based.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin abstained) to **OVERRULE** the subject determination with **FINDINGS** and a **NOTICE OF SPECIAL RESTRICTIONS** to be prepared by the appellant's attorney and for adoption on **June 13, 2001**.

SPEAKERS: 1. Larry Badiner, ZA, said that he had reconsidered his determination and feels now that the two units could be sold to 100% of median income buyers within the original conditional use authorization of the project. **2.** John Sanger, attorney for appellant, said he would have revised findings to support the ZA's new determination,

which his client can accept, next week, as well as a second Notice of Special Restrictions (NSR) as requested by Commissioner McInerney. (Mr. Badiner asked that copies of the NSR be submitted to Planning and to the Mayor's Office of Housing.)

(8) **APPEAL NO. 00-252**

JOHN O'REILLY, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[129 Randall Street.
[Denial on December 11, 2000, of permit to
[Erect a Building (three-story two unit
[dwelling).
[APPLICATION NO. 9911578S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **CONTINUE** the matter to July 11, 2001, with the public hearing **CLOSED**, and with **REVISED PLANS** to be submitted to the Planning Department.

SPEAKERS: 1. Larry Badiner, ZA, explained why the Planning Commission had denied the application with the fourth floor of occupancy. He said the appellant could fit the desired rooms into the house even if three stories and the original design does not meet the Residential Design Guidelines (RDGs). **2.** Ginger O'Reilly, wife of the appellant, explained why the fourth floor was necessary for the home of their own and that their project with four stories meets the Planning Code. **3.** Brett Gladstone, attorney for appellant, said the original staff recommendation to the Commission was for approval of the plans with the four stories with a five-foot setback and it would then meet the RDGs. He thinks the design breaks away from the usual mold and is a great design. **Public Comment for Planning Commission: 4.** Art Bender said the proposed building is too big for the site and far larger in square footage than other houses nearby. He felt the project would set a terrible precedent in an area with existing parking congestion and that the neighbors are being reasonable and are willing to compromise but the developer won't. **5.** Jan Hammock lives next door to the subject lot and her property is still in escrow. She said she feels a project is all right bot not a house of 4500sf which will loom over her house. **6.** Paul Curtiss from Fremont Street said that the project will ruin the neighborhood and that all the neighbors oppose the project since it is out of scale with the 60% of houses in the area that are two-stories and this one will be four stories. **7.** Tom Gilleran who lives next door to the subject site said his house is only one floor and was built in 1929. He said the appellant has no consideration for the neighbors and that the proposed top floor doesn't conform to the area. **8.** Andrea Werlin said the Planning Commission had rejected the four story design with a 5 to 1 vote with their findings saying the proposal will change the neighborhood character and that the appellant would not meet with the neighbors. She said there is confusion as to what exactly is to be built. **9.** Bill Petri said it is unfruitful to discuss the height issue with the appellant and that the building will alter the character of the neighborhood. **10.** Paul Travis asked the Board to note the depth of neighborhood support for the Commission's decision and that eighty people attended Supervisor Leno's meeting on this issue. He said he did not object to the proposal if the house is set into the ground as was first proposed, but now that idea is out and the original height has been reclaimed by the appellant. **Public Comment for Appellant: 11.** Jeremy Paul described the project as fitting well into the block and the design as not being incongruous with the neighborhood. **12.** Ross Levy of Randall Street said the plans comply with the Code. He said he wants to do the same on his property with two levels over garage. **13.** James Zack from Chenery Street around the corner said not only are the plans code complying but no variance is necessary for approval; while a block away is an even larger building. **14.** Eduardo Paniagua of 178 Randall Street said he supports the project sponsor. **15.** Peter Csapo of 194 Randall Street said people need larger houses now than long ago because our life style has changed and the neighbors have to get beyond the issue. **16.** Emilio Bidegain of 119 Randall said he likes the unique design of the proposed house and he felt it wouldn't be a precedent and he agrees with the previous speakers. **17.** Aaron Jackson of 195 Randall Street said this was something good and he welcomes the O'Reilly's to the neighborhood. **18.** Chiyori Filion said she has lived on Randall Street thirteen years and the existing building at 129 Randall is egregious and rebuilding it is a good idea. She feels the design of the proposed building is beautiful and appropriate for today's family needs. **19.** Tasheem Karimbhai of Chenery Street said that things change including access to light and views. **20.** Elena Asturias said she supports the appeal. **21.** Joe O'Donoghue said the project has taken two or three years to get this far and that he had lived on Randall when he first came to the City. He felt this project won't affect traffic density in the City.

(9) **APPEAL NO. 01-075**

DESMOND HAYES, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[3352-54 Clay Street.
[Denial on April 18, 2001, of permit to Alter a [Building (rehabilitate and remodel entire [building; add garage; restore legal use of [building to single-family dwelling with one [accessory unit at lower level)
[APPLICATION NO. 2000/03/13/4135S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **OVERRULE** the subject denial and **GRANT** the permit with **FINDINGS & CONDITIONS** as prepared by the appellant's consultant.

SPEAKERS: 1. Larry Badiner, ZA, said this was denied because it would mean a loss of housing and it conflicts with the General Plan. **2.** Jeremy Paul, consultant for the appellant, said that the house has a good permit history and was built as a two-family, which is what is requested today to allow to go back to two-family use. **3.** Rafael Torres-Gil, SBI, DBI, said that he had done an inspection of the property and its original use was a two-family house and that it can be readopted to two-family use easily. **No Public Comment.**

(10) **APPEAL NO. 01-069**

BETTY H. da COSTA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1247 - 38th Avenue.
[Protesting issuance on March 30, 2001, to [Kirk Sujishi, permit to Alter a Building (new [rear 10 x 17 deck no higher than three feet [from grade).
[APPLICATION NO. 2001/03/30/5706.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit.

SPEAKERS: 1. Rafael Torres-Gil, SBI, DBI, explained the permit process for rear yard decks 36" above grade or less. He said a deck needs a permit if over 30" above grade. **2.** Betty daCosta, appellant, said she objected to the permit because her property rights had been violated. She can't get to the rear of her house for maintenance because the permit holders have boxed her in with their additions and sealed her up. She can't squeeze through the little window in the back wall. 3. Kirk Sujishi, permit holder, said he has two children and needs the rear deck for them to play safely. He said the deck has already been built and a certificate of final completion issued for it. He said their deck doesn't block the appellant's access. **No Public Comment.**

(11) **APPEAL NO. 01-073**

CHARLES & JANE ELIASON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1117 Ocean Avenue.
[Protesting issuance on April 10, 2001 to [Roman Knop, permit to Demolish a retail [building.
[APPLICATION NO. 2000/07/25/6065.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit on **CONDITION** that action on the permit be stayed for 60 days, with the stay expiring on August 1, 2001.

SPEAKERS: 1. Charles Eliason, co-appellant, said his wife was the original tenant in unit 1117B and he pays for electricity for 1117 and 1119 after it was shut off by the landlord. He said he was not questioning the permit but the application did not have proper information on it since it shows no dwelling units in the building and he has lived there many years. He said he needs a 60 day delay so he can find another home. **2.** Roman Knop, permit holder, said that the tenants have not paid him rent for years. He said a 60-day delay was all right with him but he

wants the tenants to vacate by July 31, 2001. **3.** Gabriel Ng, architect for permit holder, said the addenda have not yet been issued.

(12) **APPEAL NO. 01-074**

CAROL SMITH & JACK RUSSO, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[3320 Jackson Street.
[Protesting issuance on April 11, 2001, to [Barry and Marie Lipman, permit to Alter a [Building (expand master bedroom with addi-[tion of toilet room with exhaust fan and down [light; pop-out not to exceed 1'-6" from [existing building; width of pop-out [approximately 5'-2").
[APPLICATION NO. 2001/03/15/4400.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner El Qadah absent) to **UPHOLD** the subject permit.

SPEAKERS: 1. Allen Lerch, attorney for the permit holders, said he thought the appellants were inconsiderate to not be present at the hearing. **2.** Larry Badiner, ZA, said the project will have no affect on the neighbors and that Section 311 notice was not required for the project which is a very small alteration.

(13) **APPEAL NO. 01-076**

JOHN DOO, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[579 - 17th Avenue.
[Protesting issuance on April 20, 2001, to [Guo-Bao He, permit to Erect a Single-Family [Dwelling.
[APPLICATION NO. 2000/05/09/9456S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to UPHOLD the subject permit on CONDITION that the permit holder provide plastic coverings for appellant's windows, that the permit holder purchase an air purifier for the appellant, that appellant be provided with a set of plans, and that the mounds of dirt in the construction area be covered and watered.

SPEAKERS: 1. John Doo, appellant, said the permit had not been posted and the proposed building will block his view of the Golden Gate Bridge and construction noise and dust will damage his health and life as well as cause parking problems in the area. **2.** Jeremy Paul, agent for the permit holder, said that his client will take necessary and reasonable measures to keep noise and dust from the construction to a minimum, with dust watered and coverings as appropriate. **No public comment.**

(14) **APPEAL NO. V01-071**

STUART FUSS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[445 - 461 Oak Street.
[Denial on April 9, 2001, of Lot Width, Lot [Size, Open Space, and Exposure Variances [(subdivide an existing 82 x 120 lot with four [existing residential buildings into four [separate lots, each with one residential [building).
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to **CONTINUE** the matter to **June 13, 2001**, with the public hearing **CLOSED**, and for the case to be placed first on the calendar.

SPEAKERS: **1.** Larry Badiner, ZA, explained why the variance application has been denied for failing to meet the policies of the General Plan by resulting in evictions of low-income tenants. **2.** Stuart Fuss, appellant, said he is working in good faith on conditions to accompany the granting of the variances requested to protect the tenants and maintain the affordable housing. **3.** Brett Gladstone, attorney for the appellant, said only one OMI is permitted for each building, not per lot, and none can be done without a lot split. His client has not been a bad landlord, and has only improved the property to the benefit of the tenants and he explained the three conditions he was proposing to protect the tenants. The variance and lot split are necessary to refinance to continue improvements. **4.** Rafael Torres-Gil, SBI, DBI, said he has visited the site and described the abatement order issued for it. **Public Comment for the Appellant: 5.** Jeremy Paul said he supports the appellant who has been a good landlord. **6.** Ron Davis said the landlord before the appellant was an absentee and that the appellant has been a good one, painting his unit the color he requested. **7.** Melissa Darpino, a tenant, said she supports the appellant. 8. Rob Malone, also a tenant, said he supports the appellant. **9.** Leah Bernstein is for the appellant who has improved the building. **10.** Ron Wallace, the architect for the previous owner, said he supports the appellant because he has upgraded the building which is important to him for his old age. **Public Comment for the ZA: 11.** Ana Coates said the appellant is interested in selling the property once the variance and lot split are granted. This is evidenced by the appellant only doing exterior work and not interior work. He did not even fix the mailboxes. One possible scenario is that this will make owner-move-ins more likely if the units are sold separately. She submitted two letters in support of the tenants. She said Paul Brown, a tenant with a disability and a family of color, needs special protection. **12.** John Mays said if the property is made into four units it quadruples the opportunities for OMI. He said 16% offer was not reasonable. He submitted a letter supporting tenants after reading it to the Board. He implored the Board not to allow the displacement of tenants.

There being no further business, President Chin adjourned the meeting at 11:40 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

DOCUMENTS DEPT.

JUN 1 2 2001

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JUNE 13, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS:**

ITEM A: Adoption and presentation of resolutions thanking Linda Laws & Xiomara Velez for their years of service with the Board of Appeals.

(3) **APPEAL NO. V01-071**

STUART FUSS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[445 - 461 Oak Street.
[Denial on April 9, 2001, of Lot Width, Lot [Size, Open Space, and Exposure Variances [(subdivide an existing 82 x 120 lot with four [existing residential buildings into four [separate lots, each with one residential [building).
[VARIANCE CASE NO. 2000.632V.
[PUBLIC HEARING CLOSED MAY 30, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(4) **APPEAL NO. 01-060**

PARAIC O'DONOGHUE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[182 Brewster Street.
[Protesting issuance on March 19, 2001, to [Patrick J. Fellowes, permit to Erect a [Building (three-story single-family dwelling).
[APPLICATION NO. 2000/03/13/4167S.
[PUBLIC HEARING CLOSED MAY 23, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(5) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR JURISDICTION BEYOND 15-DAY APPEAL PERIOD:

ITEM A: 1777 Yosemite and 1760 Armstrong Avenues. Letter from Stephen L. Collier, attorney for Thomas Wojak Bob Bellucci, Brent Bushnell, Malcolm McClay, and Chickory Miles requesting that the Board take jurisdiction over Building Permit Application Nos. 2001/02/22/2712, 2001/02/22/2724, 2001/02/222693 and 2001/04/23/7505 issued to Les Silverman for removal of bedrooms installed by tenant without permit.

Date issued	February 24, 2001, April 23, 2001
Last day to appeal	March 12, 2001, May 8, 2001
Request for jurisdiction	May 21, 2001

(5) MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE CONTINUED:

REQUESTS FOR JURISDICTION BEYOND 15-DAY APPEAL PERIOD CONTINUED:

ITEM B: 807 Columbus Avenue. Letter from Irene Lee requesting that the Board take jurisdiction over Building Permit Application No. 9826331S issued to Michael Strausz for a two-story vertical addition of six residential units over an existing single-story commercial structure.

Date issued	May 7, 2001
Last day to appeal	May 22, 2001
Request for jurisdiction	May 29, 2001

ITEM C: 310 Corbett Avenue, #3. Letter from Graham Bell, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04/27/7889 issued to Michael Majoulet for converting an illegal apartment into storage.

Date issued	April 27, 2001
Last day to appeal	May 14, 2001
Request for jurisdiction	May 31, 2001

ADOPTION OF FINDINGS:

ITEM D: 1299 Quesada Avenue. Appeal No. V01-051. On May 9, 2001, after public hearing, upon motion by President Chin, the Board voted 4-0 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator and **GRANT** the lot size variance to subdivide an existing corner lot into three lots.

ITEM E: 672 and 676 Clipper Street. Appeal 01-048. On May 30, 2001, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin abstained) to **OVERRULE** the subject determination with **FINDINGS** prepared by the appellant's attorney and to be adopted at a later date.

(6) CONSENT ITEMS: With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(6A) **APPEAL NO. 01-072**

GEORGE OSUMI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[515 John Muir Drive.
[Appeal for Refund of Penalty imposed on
[April 24, 2001.
[APPLICATION NO. 2001/04/24/7563.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 01-083**

ANNA TAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[416 -15th Avenue.
[Appeal for Refund of Penalty imposed on
[May 16, 2001.
[APPLICATION NO. 2001/04/26/7752.
[FOR HEARING TODAY.

REGULAR MEETING OF THE BOARD OF APPEALS, JUNE 13, 2001

Items (7A) through (7D) shall be heard together

(7A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Demolish [a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Erect a [Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(7C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Demolish [a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000, [to Nathan and Nan Roth, permit to Erect a [Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-035**

ROBERT HEYMANN, dba "NATIONAL RENTAL CAR", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Zoning Administrator determination dated [January 23, 2001 that a Police Permit [Application Zoning Referral for a Driverless [Auto Rental business is recommended for [disapproval for failure to meet various [policies and objectives of the Planning Code [and to resolve the issues raised.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-062**

CHRISTOPHER SOLLE & CARLTON SOLLE, dba "BUTTER", Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[365 - 11th Street.
[Zoning Administrator determination dated [March 22, 2001 disapproving a referral for a [Place of Entertainment/Dance Hall Keeper- [Amendment, and Outdoor Roof/Patio Use in [the Service/Light Industrial/Residential [Mixed Use (SLR) District since under [Planning Code Section 816.37 place of [entertainment uses are not permitted.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-079**

LARRY WASSERMAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[100-122 - 15th Street.
[Zoning Administrator determination dated [April 20, 2001, addressed to Walter Wong of [Jaidin Consulting Group, on behalf of Larry [Wasserman, the subject property owner, [disapproving the alteration permit for [Epicentric, Inc., the proposed tenant, for the [reason that the business service [determination letter is not transferable from [200 Kansas Street to the occupancy of the [subject property.
[APPLICATION NO. 2001/02/08/1601.
[FOR HEARING TODAY.

(11) **APPEAL NO. V01-084**

JOHN KING, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2779 Diamond Street.
[Protesting granting on May 10, 2001 to Jeff [and Julie Blanc, Minimum Lot Size Variance [to subdivide a 2,935 square foot through-lot [into two lots of approximately 1,468 square [feet.
[VARIANCE CASE NO. 2000.937V.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: June 7, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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DEPARTMENT 41

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MINUTES OF THE REGULAR MEETING - WEDNESDAY, JUNE 13, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

Easteller Bruihl, the Official Court Reporter, swore in all those who intended to testify.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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07-05-01A11:24 RCVD

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS:**

SPEAKERS: None.

ITEM A: Adoption and presentation of resolutions thanking Linda Laws & Xiomara Velez for their years of service with the Board of Appeals.

SPEAKERS: **1.** President Chin thanked Linda Laws and Xiomara Velez for their years of service to the Board and presented them each with a resolution of commendation adopted unanimously by the Board to that effect.
2. Commissioner Cullum and Vice President Saunders added their thanks and wished them well with their new endeavors.

(3) **APPEAL NO. V01-071**

STUART FUSS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[445 - 461 Oak Street.
[Denial on April 9, 2001, of Lot Width, Lot [Size, Open Space, and Exposure Variances [(subdivide an existing 82 x 120 lot with four [existing residential buildings into four [separate lots, each with one residential [building).
[VARIANCE CASE NO. 2000.632V.
[PUBLIC HEARING CLOSED MAY 30, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to **OVERRULE** the Zoning Administrator and **GRANT** the variance with **FINDINGS** as revised by the Board.

SPEAKER: Brett Gladstone, attorney for the appellant, presented draft findings for the Board's consideration and a sheet of amendments to the findings both of which were adopted. He said that the amendments gave further

protection to the tenants. **No public comment.**

(4) **APPEAL NO. 01-060**

PARAIC O'DONOGHUE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[182 Brewster Street.
[Protesting issuance on March 19, 2001, to
[Patrick J. Fellowes, permit to Erect a
[Building (three-story single-family dwelling).
[APPLICATION NO. 2000/03/13/4167S.
[PUBLIC HEARING CLOSED MAY 23, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 2-3 (Vice President Saunders, Commissioner McInerney and Commissioner El Qadah dissented) to uphold the subject permit. Four votes being necessary to overturn any departmental action, the motion passed and the subject permit was **UPHELD**.

SPEAKERS: **1.** Laurence Kornfield, CBI, DBI, reported on the conflicting surveys at the subject property, explaining that two different monuments were used for the two surveys, leading to different surveys for the same property, and he said the fault, if any, was with the City and not the permit holder. He had spoken with Joe Pelayo of the Department of Public Works (DPW). **2.** Larry Badiner, ZA, said that in view of the facts that he did not require that a variance be sought to allow the 1'9" extension at the rear of the house, now under construction. **3.** Henry Arana, engineer who prepared both subject surveys, said he had used different monuments for the two surveys. **4.** Patrick Fellowes, permit holder, said that the extension was not an issue for the people next door to his property and that he has completed the first floor of the new house. He said he had acted in good faith. **Public Comment for Appellant: 5.** Joe O'Donoghue of the Residential Builders Association (RBA) said the Board should require the permit holder to seek and justify a variance to legalize the extension of this house, just as members of his organization would be required to. He said this would be a precedent and his members would take advantage of it in the future. **No Public Comment for Permit Holder.**

(5) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR JURISDICTION:

ITEM A: 1777 Yosemite and 1760 Armstrong Avenues. Letter from Stephen L. Collier, attorney for Thomas Wojak, Bob Bellucci, Brent Bushnell, Malcolm McClay, and Chickory Miles requesting that the Board take jurisdiction over Building Permit Application Nos. 2001/02/22/2712, 2001/02/22/2724, 2001/02/222693 and 2001/04/23/7505 issued to Les Silverman for removal of bedrooms installed by tenant without permit.

Date issued	February 24, 2001, April 23, 2001
Last day to appeal	March 12, 2001, May 8, 2001
Request for jurisdiction	May 21, 2001

ACTION: Upon motion by President Chin, the Board voted 5-0 to **GRANT** jurisdiction, with a directive to the Dept. of Building Inspection and the Zoning Administrator to conduct a site visit so as to evaluate the life/safety issues on the subject property.

SPEAKERS: **1.** Steve Collier of the Tenderloin Housing Clinic, attorney for the requestors, said that he represented tenants trying to protest four permits for a building with sixteen live-work tenants living in a true artists' live-work situation. He said there was no notice given to the tenants of the issuance of the permits so they were not able to file appeals within the 15-day appeal period and he asked the Board to give them another 15 days to file. He said the owners attempt to evict tenants was not done in good faith and if evicted these artists would leave the City to find the special large spaces they need to create their art. **2.** Thomas Wojack, one of the tenants, said he spoke for all the tenants and confirmed that they would have to leave town if evicted. **3.** Kevin Greenquist, attorney for the permit holder, said that his client was trying to abate many violations of the Building Code and of the Fire Code. He said it would cost his client ten million dollars to bring the building up to Code so that tenants could live there lawfully and safely. **4.** Laurence Kornfield, CBI, DBI, explained that the Building Code doesn't require any notice to tenants for renovation and repair of the building unless the building is deemed an apartment house or residential

hotel. If a building is deemed a multi-residential use the notice would be required; and none was given. **5.** Judith Boyajian, DCA, said the law did not cover live-work for notice requirements. **6.** Larry Badiner, ZA, said his staff is doing more review of live-work regulation that will be presented August 31, 2001. **Public Comment for the Requestors: 7.** Joe O'Donoghue said that this case was what live-work was all about as created through state and local law, an attempt to provide housing and work space for artists in industrial and warehouse buildings and he supported their request.

ITEM B: 807 Columbus Avenue. Letter from Irene Lee requesting that the Board take jurisdiction over Building Permit Application No. 9826331S issued to Michael Strausz for a two-story vertical addition of six residential units over an existing single-story commercial structure.

Date issued	May 7, 2001
Last day to appeal	May 22, 2001
Request for jurisdiction	May 29, 2001

ACTION: Upon motion by Vice President Saunders, the Board voted 4-1 (Commissioner McInerney dissented) to **GRANT** jurisdiction.

SPEAKERS: 1. Eva Chow, sister of the requestor, said her sister received the letter giving notice of the project too late to file an appeal and she herself could not find the address indicated in the letter, 807 Columbus, even though she walked the length of the block and asked people in some of the buildings there if they knew which one was 807 Columbus. **2.** Michael Strauz, permit holder, explained how the Central Permit Bureau had determined that his project was at 807 since there was confusion about the site. He said all proper notices were sent out for the variance and conditional use applications and that the neighbors had months to check on the matter and had not done so. He said 807 was not built yet so there is not yet a building with that number on the street. **No Public Comment.**

ITEM C: 310 Corbett Avenue, #3. Letter from Graham Bell, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04/27/7889 issued to Michael Majoulet for converting an illegal apartment into storage.

Date issued	April 27, 2001
Last day to appeal	May 14, 2001
Request for jurisdiction	May 31, 2001

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **CONTINUE** the matter to **June 20, 2001**.

SPEAKERS: 1. Graham Bell, requestor, said he will be evicted in two weeks unless the project is stopped. He said there has been no posting of a permit or notice on the property so he did not know of the permit or its issuance in time to file an appeal, so he has been denied due process and he feels the project violates Prop M because the project will result in the loss of affordable housing and will be out of character with the neighborhood. **2.** Kevin Greenquist, attorney for the permit holder, explained that the subject unit was illegal since the property was zoned for only two units, not three. He said the tenant never requested more time from the owner to allow for finding a new home. He said the owner wants to bring the building back to its original lawful use and the unit back to its original storage use with all violations abated. **3.** Michael Majoulet, permit holder, said he wants to remove the illegal unit which will improve the building's security and the unit can't be legalized because of the zoning. **No public comment.**

ADOPTION OF FINDINGS:

ITEM D: 1299 Quesada Avenue. Appeal No. V01-051. On May 9, 2001, after public hearing, upon motion by President Chin, the Board voted 4-0 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator and **GRANT** the lot size variance to subdivide an existing corner lot into three lots.

ACTION: This matter was **RESCHEDULED** to **July 18, 2001** prior to consideration.

ITEM E: 672 and 676 Clipper Street. Appeal 01-048. On May 30, 2001, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin recused) to **OVERRULE** the subject determination with **FINDINGS** prepared by the appellant's attorney and to be adopted at a later date.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin recused) to **RECUSE** President Chin. Afterwards, upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin recused) to **ADOPT** the subject findings.

(6) **CONSENT ITEMS:** Without consent from the Department of Building Inspection, the Board took testimony and then decided the appeal(s) as follows:

(6A) **APPEAL NO. 01-072**

GEORGE OSUMI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[515 John Muir Drive.
[Appeal for Refund of Penalty imposed on
[April 24, 2001.
[APPLICATION NO. 2001/04/24/7563.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **REDUCE** the subject penalty to five times the regular fee.

SPEAKERS: **1.** George Osumi, appellant, said he had no intention to avoid the permit process but had thought no permit was required for this repair work. **2.** Laurence Kornfield, CBI, DBI, said a permit was necessary for the entire job, not just for the deck. He also asked the Board to uphold the penalty since the appellant was a professional and not just a single householder with no knowledge of the permit system. **No public comment.**

(6B) **APPEAL NO. 01-083**

ANNA TAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[416 -15th Avenue.
[Appeal for Refund of Penalty imposed on
[May 16, 2001.
[APPLICATION NO. 2001/04/26/7752.
[FOR HEARING TODAY.

ACTION: This matter was **RESCHEDULED** to **August 1, 2001** prior to hearing.

Items (7A) through (7D) were heard together

(7A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(7C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(7D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

ACTION: These matters were **RESCHEDULED** at the request of the parties to **July 18, 2001** prior to hearing.

(8) **APPEAL NO. 01-035**

ROBERT HEYMANN, dba "NATIONAL RENTAL CAR", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Zoning Administrator determination dated
[January 23, 2001 that a Police Permit
[Application Zoning Referral for a Driverless
[Auto Rental business is recommended for
[disapproval for failure to meet various
[policies and objectives of the Planning Code
[and to resolve the issues raised.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **CONTINUE** the matter to **July 18, 2001**, with the appellant to provide a representative at his business to immediately address neighborhood complaints, and for the unpaved corner triangle on the subject property to be covered properly with asphalt within 10 days or else the Planning Department shall go forward and shut down the subject business for operating without a valid permit.

SPEAKERS: **1.** Larry Badiner, ZA, described how the owner is still in violation with water still on the sidewalk and the corner triangle still unpaved and a hazard to pedestrians, but that there has been some movement with some sidewalk repair and fewer incidents of double parking, though the rental car business is still sloppy. He said there must be more compliance before he approves the Police referral for a permit for them. He submitted photos by Jeremy Paul, a concerned neighbor, who supports the department disapproval. **2.** Laurence Kornfield, CBI, DBI, said he went to speak to the appellant but was ignored and he supports the Planning disapproval, also. He said he has spoken to DPT to encourage more enforcement of the parking regulations in the area, though this situation is not deemed an emergency. **3.** Brett Gladstone, attorney for the appellant, described his efforts to get the owner to comply with the Planning requests and their recalcitrance. **4.** Robert Heymann, appellant, described the proposed signage for the site in response to Commissioners' questions. **No public comment.**

(9) **APPEAL NO. 01-062**

CHRISTOPHER SOLLE & CARLTON SOLLE, dba "BUTTER", Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[365 - 11th Street.
[Zoning Administrator determination dated [March 22, 2001 disapproving a referral for a [Place of Entertainment/Dance Hall Keeper-[Amendment, and Outdoor Roof/Patio Use in [the Service/Light Industrial/Residential [Mixed Use (SLR) District since under [Planning Code Section 816.37 place of [entertainment uses are not permitted.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted to **OVERRULE** the subject determination, with the appellants' use not deemed to be a place of entertainment and therefore not required to obtain a Place of Entertainment/Dance Hall Keeper permit from the Police Department with the following **CONDITIONS**: that no paid disc jockey (DJ) operate the CD player(s) or turntable(s), which are only to be operated by staff, including serving staff, bartenders, and managers; and that all tips be equally divided among staff.

SPEAKERS: **1.** Larry Badiner, ZA, explained his determination and the zoning regulations involved in the appeal regarding places of entertainment. **2.** Christopher Solle, co-appellant, said that his business is not a dance hall but needs a place of entertainment permit because they play CD's and tapes to provide background music for the restaurant. He said Officer Rose Meyer required them to file the application, though they did not seek permission for an outdoor roof patio, and he explained that they did not have a professional at the turntables, just his staff people. **3.** Carlton Solle, co-appellant, said they have been in business two and a half years. He said they needed clarification of the Planning and Police Code definitions of a place of entertainment which appear to be inconsistent with one another. **No public comment.**

(10) **APPEAL NO. 01-079**

LARRY WASSERMAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[100-122 - 15th Street.
[Zoning Administrator determination dated [April 20, 2001, addressed to Walter Wong of [Jaidin Consulting Group, on behalf of Larry [Wasserman, the subject property owner, [disapproving the alteration permit for [Epicentric, Inc., the proposed tenant, for the [reason that the business service [determination letter is not transferable from [200 Kansas Street to the occupancy of the [subject property.
[APPLICATION NO. 2001/02/08/1601.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin and Commissioner El Qadah dissented) to **UPHOLD** the subject determination.

SPEAKERS: **1.** Larry Badiner, ZA, explained his determination that an earlier determination that the business was a business service use for another site would not apply to the same business at a new site for the reason the rules had changed for multi-media and business service uses and the earlier determination could not apply for the new site. Former determinations were based on analyzes in light of specific buildings and sites and therefore couldn't be transferred since determinations were site specific, in addition to the new rules which redefined multi-media and business service uses. At the former site the use has become a non-conforming use and could have remained there. The M-2 zoning does not permit business service use. **2.** Patrice Fambrini of Jaidin Consulting, agent for appellant, said that in their view the plans comply with the zoning of the proposed site and the use is lawful there. She added that the Planning Code is silent on the issue of determinations being linked to specific property. She also said she believes the Planning Code states that the business service use is defined by the use and not by location. **3.** Walter Wong of Jaidin Consulting, agent for appellant, said that he represents only the

owner of the property and not only the tenant or prospective tenants. He said the permit for office and retail use of the subject property is on file and the owner wants the proposed tenant to be able to move into the subject property. **Public Comment for Appellant: 4.** Joe O'Donoghue of the Residential Builders Association said he knows and supports the appellant, and that this was a case of someone relying on a determination as in the Brewster Street case, with the appellant being an innocent victim.

(11) **APPEAL NO. V01-084**

JOHN KING, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2779 Diamond Street.
[Protesting granting on May 10, 2001 to Jeff
[and Julie Blanc, Minimum Lot Size Variance
[to subdivide a 2,935 square foot through-lot
[into two lots of approximately 1,468 square
[feet.
[VARIANCE CASE NO. 2000.937V.
[FOR HEARING TODAY.

ACTION: This matter was **WITHDRAWN** by the appellant prior to hearing.

There being no further business, President Chin adjourned the meeting at 9:21 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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JUN 15 2001

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JUNE 20, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION & OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 579 - 17th Avenue. Letter from John Doo, appellant, requesting rehearing of Appeal 01-76, heard May 30, 2001. Upon motion by Commissioner El Qadah, the Board voted 5-0 to **UPHOLD** the subject permit on **CONDITION** that the permit holder provide plastic coverings for appellant's windows, that the permit holder purchase an air purifier for the appellant, that appellant be provided with a set of plans, and that the mounds of dirt in the construction area be covered and watered.

REQUESTS FOR JURISDICTION:

ITEM B: 310 Corbett Avenue, #3. Letter from Graham Bell, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04/27/7889 issued to Michael Majoulet for converting an illegal apartment into storage. PUBLIC TESTIMONY HEARD JUNE 13, 2001. FOR FURTHER CONSIDERATION TODAY.

Date issued	April 27, 2001
Last day to appeal	May 14, 2001
Request for jurisdiction	May 31, 2001

ITEM C: 952-954 Ashbury Street. Letter from Dorothy Dube and Mark Slomoff requesting that the Board take jurisdiction over Building Permit Application No. 2001/02/07/1598 issued to Ted Bartlett for interior alterations.

Date issued	March 27, 2001
Last day to appeal	April 11, 2001
Request for jurisdiction	May 8, 2001

ITEM D: 479-483 Third Street. Letter from Raquel Fox, attorney for Suzanne Yee, requesting that the Board take jurisdiction over Building Permit Application No. 2001/01/12/1923 issued to Yiu Kee Leung for separating units that had been combined per plans on second floor; and removal of stove in Unit 12 on third floor.

Date issued	March 8, 2001
Last day to appeal	March 23, 2001
Request for jurisdiction	May 29, 2001

(4) MATTERS FOR CONSIDERATION & OTHER CORRESPONDENCE (CONTINUED):

REQUESTS FOR JURISDICTION (CONTINUED):

ITEM E: 4733 - 18th Street. Letter from Todd Wilson requesting that the Board take jurisdiction over Building Permit Application No. 9817703S issued to for construction of a four-story two-unit residential building.

Date issued	June 14, 2000
Last day to appeal	June 29, 2000
Request for jurisdiction	June 1, 200

(4) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000, [to K.M. Lo, permit to Erect a Building (six [unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7, [2001.
[FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 00-215**

JOAN COLEMAN SPAARGAREN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[710 - 10th Avenue.
[Determination dated October 20, 2000 that [the work performed on the property July 21, [2000 constituted an unlawful demolition [pursuant to Building Code Section 103.3 [and the permits are hereby revoked.
[APPLICATION NOS. 9905698S1, [2000/04/07/6740.
[FOR REHEARING TODAY.

(6) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[699 Paris Street.
[Denial on March 20, 2001, of Minimum Lot [Size, Rear Yard, and Front Yard Variance [sought to subdivide a previously subdivided [3,150 s.f. corner parcel into two lots with the [new proposed vacant lot equaling [approximately 1,260 s.f., and construct a [new three story, single family dwelling on [the proposed subdivided vacant lot.
[VARIANCE CASE NO. 2000.870V
[FOR HEARING TODAY.

(7) **APPEAL NO. 00-073**

DONALD W. McNABB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1785 Bancroft Avenue.
[Denial on April 28, 2000, of permit to Alter a [Building (conversion of existing warehouse/ [storage facility into a hot tub/spa estab- [lishment).
[APPLICATION NO. 9917785.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-058**

JIMMY CHU, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2838 Sacramento Street.
[Suspension on March 23, 2001, of permit to
[Alter a Building for failure to provide valid
[Section 311 Notification for construction off-
[street parking garage at front and expansion
[of existing building to the side and addition
[of new story on top.
[APPLICATION NO. 2000/08/11/7707S.
[FOR HEARING TODAY.

(9) **APPEAL NO. V01-086**

MAUREEN CROWE, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[368 Vallejo Street.
[Protesting granting on May 9, 2001 to
[Susanna M. Dulkinys, Rear Yard Variance
[to construct an underground addition at the
[rear of an existing two-story single-family
[dwelling.
[VARIANCE CASE NO. 2001.0001V
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: June 14, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
SABRINA N. SAUNDERS	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
JOHN E. MCINERNEY, III	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JUNE 20, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

07-05-01A11:25 RCVD

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKER: Lois Baerdorchi asked the Board to grant the jurisdiction request by Todd Wilson for the property at 4733 – 18th Street.

(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

SPEAKERS: President Chin, Commissioner El Qadah, Commissioner McInerney and Commissioner Cullum. The Board then directed the Executive Secretary to schedule for discussion an item regarding the proposed Charter amendment by Supervisor McGoldrick.

(3) **MATTERS FOR CONSIDERATION & OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 579 - 17th Avenue. Letter from John Doo, appellant, requesting rehearing of Appeal 01-76, heard May 30, 2001. Upon motion by Commissioner El Qadah, the Board voted 5-0 to **UPHOLD** the subject permit on **CONDITION** that the permit holder provide plastic coverings for appellant's windows, that the permit holder purchase an air purifier for the appellant, that appellant be provided with a set of plans, and that the mounds of dirt in the construction area be covered and watered.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **DENY** the request for rehearing.

SPEAKERS: 1. John Doo informed the Board that Thomas Chao would read his statement. 2. Thomas Chao, agent for appellant/requestor, read Mr. Doo's statement in which he urged the Board to grant a rehearing. 3. Jeremy Paul, agent for the permit holder, asked the Board to deny the request and uphold the original decision.

REQUESTS FOR JURISDICTION:

ITEM B: 310 Corbett Avenue, #3. Letter from Graham Bell, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04727/7889 issued to Michael Majoulet for converting an illegal apartment into storage. PUBLIC TESTIMONY HEARD JUNE 13, 2001. FOR FURTHER CONSIDERATION TODAY.

Date issued	April 27, 2001
Last day to appeal	May 14, 2001
Request for jurisdiction	May 31, 2001

MEETING MINUTES, BOARD OF APPEALS, JUNE 20, 2001

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **CONTINUE** the matter to **August 22, 2001**.

SPEAKERS: 1. Graham Bell, requestor, reported on the discussions/negotiations that he had with the permit holder. 2. Michael Majoulet, permit holder, commented on the remarks made by the requestor.

ITEM C: 952-954 Ashbury Street. Letter from Dorothy Dube and Mark Slomoff requesting that the Board take jurisdiction over Building Permit Application No. 2001/02/07/1598 issued to Ted Bartlett for interior alterations.

Date issued	March 27, 2001
Last day to appeal	April 11, 2001
Request for jurisdiction	May 8, 2001

ACTION: This matter was **WITHDRAWN** by the requestor prior to consideration.

ITEM D: 479-483 Third Street. Letter from Raquel Fox, attorney for Suzanne Yee, requesting that the Board take jurisdiction over Building Permit Application No. 2001/01/12/1923 issued to Yiu Kee Leung for separating units that had been combined per plans on second floor; and removal of stove in Unit 12 on third floor.

Date issued	March 8, 2001
Last day to appeal	March 23, 2001
Request for jurisdiction	May 29, 2001

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to RECUSE President Chin. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin recused) to GRANT jurisdiction on CONDITION that the requestor file the appeal on Thursday, June 21, 2001, and that the hearing be scheduled for July 11, 2001.

SPEAKERS: 1. Raquel Fox, attorney for the appellant, explained why her client was unable to file during the appeal period, and urged the Board to grant jurisdiction. 2. Kenneth Vierra, Jr., attorney for the permit holder, commented on the remarks made by the requestor's attorney.

ITEM E: 4733 - 18th Street. Letter from Todd Wilson requesting that the Board take jurisdiction over Building Permit Application No. 9817703S issued to for construction of a four-story two-unit residential building.

Date issued	June 14, 2000
Last day to appeal	June 29, 2000
Request for jurisdiction	June 1, 2001

ACTION: Upon motion by President Chin, the Board voted 4-0 to **RECUSE** Commissioner McInerney. Afterwards, the Board voted 4-0-1 (Commissioner McInerney recused) to **DENY** jurisdiction.

SPEAKERS: 1. Todd Wilson, requestor, asked the Board to take jurisdiction based on what he described as a misleading drawing/architectural sketch of the project sent to the neighbors last summer. 2. Andrew Junius, attorney for the permit holders, urged the Board to deny jurisdiction based on his clients' reliance on the subject permit for the past year.

(4) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000, [to K.M. Lo, permit to Erect a Building (six [unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING CLOSED MARCH 7, [2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to **CONTINUE** the matter to **July 18, 2001**.

SPEAKERS: 1. Alice Barkley spoke on behalf of the Lady Shaw Senior Center. 2. Jeremy Paul spoke on behalf of the permit holders. 3. Laurence Kornfiled, CBI, DBI, described the meeting that took place between Ms. Barkley, Mr. Paul, himself, and representatives from DPW and DRE.

(5) **APPEAL NO. 00-215**

JOAN COLEMAN SPAARGAREN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[710 - 10th Avenue.
[Determination dated October 20, 2000 that [the work performed on the property July 21, [2000 constituted an unlawful demolition [pursuant to Building Code Section 103.3 [and the permits are hereby revoked.
[APPLICATION NOS. 9905698S1, [2000/04/07/6740.
[FOR REHEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to **OVERRULE** the subject determination with a **FINDING** that a demolition permit was issued on March 31, 2001.

SPEAKERS: 1. Laurence Kornfield, CBI, DBI, explained the subject determination. 2. John Sanger, attorney for the appellant, outlined his reasons for the appeal and urged the Board to overrule the subject determination. **Public Comment for DBI:** Stephen Williams, Hiroshi Fukuda, and Supervisor Jake McGoldrick. **Public Comment for the Appellant:** Joe O'Donoghue.

(6) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[699 Paris Street.
[Denial on March 20, 2001, of Minimum Lot [Size, Rear Yard, and Front Yard Variance [sought to subdivide a previously subdivided [3,150 s.f. corner parcel into two lots with the [new proposed vacant lot equaling [approximately 1,260 s.f., and construct a [new three story, single family dwelling on [the proposed subdivided vacant lot.
[VARIANCE CASE NO. 2000.870V
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **CONTINUE** the matter to **August 1, 2001**.

SPEAKERS: 1. Larry Badiner, ZA, explained the reasons for the denial of the subject variance application. 2. Morgan Benedicto, appellant, outlined his arguments as to why his proposal meets all the five findings for a variance under the Planning Code. **Public Comment for the ZA:** Ari Stratakis. **Public Comment for the Appellant:** Conrad Benedicto.

MEETING MINUTES, BOARD OF APPEALS, JUNE 20, 2001

(7) **APPEAL NO. 00-073**

DONALD W. McNABB, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1785 Bancroft Avenue.
[Denial on April 28, 2000, of permit to Alter a
[Building (conversion of existing warehouse/
[storage facility into a hot tub/spa estab-
[lishment).
[APPLICATION NO. 9917785.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to **UPHOLD** the denial of the subject alteration permit.

SPEAKERS: Neither the appellant nor his attorney were present for the hearing. **Public comment for the Planning Department:** Ralph House and Pauline Peeler.

(8) **APPEAL NO. 01-058**

JIMMY CHU, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2838 Sacramento Street.
[Suspension on March 23, 2001, of permit to
[Alter a Building for failure to provide valid
[Section 311 Notification for construction off-
[street parking garage at front and expansion
[of existing building to the side and addition
[of new story on top.
[APPLICATION NO. 2000/08/11/7707S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **RESCHEDULE** the matter to **July 18, 2001** at the written request of the appellant.

SPEAKERS: None.

(9) **APPEAL NO. V01-086**

MAUREEN CROWE, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[368 Vallejo Street.
[Protesting granting on May 9, 2001 to
[Susanna M. Dulkinys, Rear Yard Variance
[to construct an underground addition at the
[rear of an existing two-story single-family
[dwelling.
[VARIANCE CASE NO. 2001.0001V
[FOR HEARING TODAY.

ACTION: This matter was **RESCHEDULED** to **July 18, 2001** prior to hearing with the agreement of all parties.

There being no further business, President Chin adjourned the meeting at 9:00 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JULY 11, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 1592-1594 Golden Gate Avenue. Letter from Alice R. Lane, conservator for Elizabeth Jamerson, appellant, requesting rehearing of Appeal No. 00-181 heard on February 28, 2001. Upon motion by Commissioner McInerney, the Board voted 2-2 (President Chin and Commissioner El Qadah dissented, Vice President Saunders absent) to **UPHOLD** the Zoning Administrator's determination that there was sufficient evidence to constitute clear intent on the part of the owner to abandon the Limited Commercial Use for the subject property. Four votes are needed to overrule and the determination was **UPHELD**.

ITEM B: 575 Miramar Avenue. Letter from Patricia McColm, appellant, requesting rehearing of Appeal No. 01-066, heard May 23, 2001. Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit. Permit Holder: Marc Balistreri.

ITEM C: 356 – 11th Street. Letter from Carlton Solle, co-appellant, requesting a rehearing of Appeal No. 01-062, heard June 13, 2001. Upon motion by President Chin, the Board voted 5-0 to **OVERRULE** the subject determination, with the appellants' use not deemed to be a place of entertainment and therefore not required to obtain a Place of Entertainment/Dance Hall Keeper permit from the Police Department with the following **CONDITIONS**: that no paid disc jockey (DJ) operate the CD player(s) or turntable(s), which are only to be operated by staff, including serving staff, bartenders, and managers; and that all tips be equally divided among staff.

ADOPTION OF FINDINGS:

ITEM D: 710 – 10th Avenue. Appeal No. 00-215, rehearing held June 20, 2001. Upon motion by Vice President Saunders, the Board voted 5-0 to **OVERRULE** the subject determination with a **FINDING** that a demolition permit was issued on March 31, 2000.

(4) **CONSENT ITEM:** With the consent of the Department of Building Inspection, the Board will proceed to a vo without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(A) **APPEAL NO. 01-096**

XUE DONG ZHENG, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1301 Geneva Avenue.
[Appeal for refund of penalty imposed on
[June 4, 2001.
[APPLICATION NO. 2001/06/04/0638.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-252**

JOHN O'REILLY, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[129 Randall Street.
[Denial on December 11, 2000, of permit to
[Erect a Building (three-story two-unit
[dwelling).
[APPLICATION NO. 9911578S.
[PUBLIC HEARING CLOSED MAY 30, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-078**

WILLIAM J. BUERSTER & PATRICIA CALDER, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1328 Noe Street.
[Protesting issuance on April 16, 2001, to
[Scott Miller, permit to Alter a Building (new
[ground floor covered vestibule; new first
[story living room over garage; new second
[story bedroom and bathroom)
[APPLICATION NO. 2000/02/10/1531S.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-085**

KRISTEN ARKUSH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[80 Mizpah Street.
[Protesting issuance on May 11, 2001, to
[Christopher Olin and Regan Pritzker, permit
[to Alter a Building (add new deck and stairs
[at rear of house).
[APPLICATION NO. 2001/04/02/5750.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-097**

CORAZON L. ZHANG, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1750 - 27th Avenue.
[Protesting issuance on May 21, 2001, to
[Byron & Gabby Smith, permit to Alter a
[Building (construct new 12' X 19' rear deck).
[APPLICATION NO. 2001/05/21/9655.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-094**

DWIGHT SIU, CLIFF FLORES &
MARGARET McCAIN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1550 - 22nd Street.
[Protesting issuance on May 17, 2001, to
[Austin Harkin, permit to Erect a Building
[(Four story, two-family dwelling with 1,875sf
[of ground floor area.
[APPLICATION NO. 9913238S
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-105**

DAWN OLSON,
HELEN TURNBULL, & RUTH MORALES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[17 Mirabel Avenue.
[Protesting issuance on June 18, 2001, to
[Stacey Kayden, permit to alter a building
[(build one car garage at front of building).
[APPLICATION NO. 2001/03/13/4133.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: July 5, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 576-0700

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JULY 11, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John Mcinerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Isolde Wilson, Senior Planner, Planning Department (SP, PD); Rafael Torres-Gil, Senior Building Inspector (SBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKER: President Chin asked those in the audience who wished to speak on Item 5 to wait until it was called and not speak under the first item.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 1592-1594 Golden Gate Avenue. Letter from Alice R. Lane, conservator for Elizabeth Jamerson, appellant, requesting rehearing of Appeal No. 00-181 heard on February 28, 2001. Upon motion by Commissioner McInerney, the Board voted 2-2 (President Chin and Commissioner El Qadah dissented, Vice President Saunders absent) to **UPHOLD** the Zoning Administrator's determination that there was sufficient evidence to constitute clear intent on the part of the owner to abandon the Limited Commercial Use for the subject property. Four votes are needed to overrule and the determination was **UPHELD**.

ACTION: This matter was **RESCHEDULED** to **August 1, 2001** at the written request of the Appellant/Requestor.

ITEM B: 575 Miramar Avenue. Letter from Patricia McColm, appellant, requesting rehearing of Appeal No. 01-066, heard May 23, 2001. Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit. Permit Holder: Marc Balistreri.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **DENY** the request for rehearing.

SPEAKERS: 1. Patricia McColm, appellant, asked the Board to grant her a rehearing for the reason the permit holder had not responded in writing to her written request for a rehearing and because there was no opposition to her appeal and the Board should be sensitive to her as a disabled person whose health is being hurt because of the work being done by the permit holder. 2. Marc Balistreri, permit holder, said he opposes the request because no new evidence was to be presented if granted as required by the Board's Rules to justify a rehearing and he said he

has done no new work since his permit was suspended upon the filing of the appeal and he would have finished the work if the appeal and suspension had not occurred.

ITEM C: 356 – 11th Street. Letter from Carlton Solle, co-appellant, requesting a rehearing of Appeal No. 01-062, heard June 13, 2001. Upon motion by President Chin, the Board voted 5-0 to **OVERRULE** the subject determination, with the appellants' use not deemed to be a place of entertainment and therefore not required to obtain a Place of Entertainment/Dance Hall Keeper permit from the Police Department with the following **CONDITIONS**: that no paid disc jockey (DJ) operate the CD player(s) or turntable(s), which are only to be operated by staff, including serving staff, bartenders, and managers; and that all tips be equally divided among staff.

ACTION: This matter was **RESCHEDULED** to **August 1, 2001** at the written request of the Appellant/Requestor.

ADOPTION OF FINDINGS:

ITEM D: 710 – 10th Avenue. Appeal No. 00-215, rehearing held June 20, 2001. Upon motion by Vice President Saunders, the Board voted 5-0 to **OVERRULE** the subject determination with a **FINDING** that a demolition permit was issued on March 31, 2000.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **ADOPT** the subject findings.

(4) **CONSENT ITEM:** With the consent of the Department of Building Inspection, the Board proceeded to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code.

(A) **APPEAL NO. 01-096**

XUE DONG ZHENG, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1301 Geneva Avenue.
[Appeal for refund of penalty imposed on
[June 4, 2001.
[APPLICATION NO. 2001/06/04/0638.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to **REDUCE** the subject penalty to two times the regular fee.

(5) **APPEAL NO. 00-252**

JOHN O'REILLY, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[129 Randall Street.
[Denial on December 11, 2000, of permit to
[Erect a Building (three-story two-unit
[dwelling).
[APPLICATION NO. 9911578S.
[PUBLIC HEARING CLOSED MAY 30, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **OVERRULE** the denial by the Planning Commission, to **GRANT** the subject permit per the revised plans with the following **CONDITIONS**: that the bay and stem walls be reduced from three feet to two feet, and that the second and third floors be reduced in height from eight feet / ten inches to eight feet / four inches, with **FINDINGS** as prepared by the appellant's attorney.

SPEAKERS: 1. Mark Leno, Member, Board of Supervisors, speaking as a private citizen asked the Board to uphold the Planning Commission's required modification of the plans to remove the fourth level because the proposal was out of scale with the neighborhood. He said he is working on legislation that will prohibit houses that are out of scale with their neighborhood. 2. Bill Petri said the latest plans may be appropriate for a wide street but not for a narrow street like Randall Street. 3. Randall Zielinski of 169 Valley Street, speaking for himself and his wife, Vicki Rosen, said that he opposes the project because it is out of scale with the neighborhood. 4. Tom Gilleran of Randall Street said that the proposal does not conform to the neighborhood

and asked the Board to uphold the Planning Commission. 5. John Murray said that a four-story house will rise over its neighbors and would be a bad precedent that will transform the neighborhood, and a rich and diverse architectural heritage will be swept away; adding that the City is a special place where people can back up and see the sky. 6. Shirley Armintrout said that the house will be very expensive and the units will generate six to eight cars with a domino effect on other properties also rising to four stories. 7. Dave Monks, President of Friends of Noe Valley, said that the four-story design is out of context and does not represent good planning (Frankenstein Planning) with its seven bedrooms and six bathrooms and two or three parking spaces; it will be too large. 8. Jeannene Przyblyski said her house is only 1300sf and built in the 1920's. She objects to the size and density of the proposal. 9. Stephen Williams said the Board is not a legislative body and that it has made several decisions recently which upheld permits for buildings that are subject to the live-work moratorium while the legislation was on the Mayor's desk awaiting signature, and also overruled DBI decisions on unlawful demolitions, undermining legislative intent. 10. Linda Barth said the new three-story buildings up the street are fine but the proposed four-story house is just a big box. 11. Paul Curtis of Fairmount Street said this will be a bad precedent, and he is outraged that the appellant is considering another out of scale building by Jimmy Jen which violates the Residential Design Guidelines which require sensitivity to adjacent properties. 12. Katherine Howes of 158 Randall Street said she wants the building to be consistent with the three-story buildings of the neighborhood and the project kept in line with and conforming to the neighborhood. 13. Paul Travis said the revised plans are still too bulky and house too big, still with a fourth story, which is not consistent with the scale of the neighborhood. **Public Comment for Appellant:** 13. John Ewers said he lives half a block away, and spoke for himself and his wife, and said he supports the project because there is a housing shortage. 14. James Woods said he supports the appellant and has looked closely at the plans and feels the building fits into the neighborhood, and meets the RDG's, the density and height regulations, and the appellant intends to live in one of the units. Reducing the size would make the project not viable based on cost. 15. Tasneem Karimbhai of Chenery Street asked the Board to allow the appellant to build the house. 16. Chiyori Filion said she is an artist, and in her view the design is not ugly and is beautiful to her. She said she and her daughter need large rooms and she supports the large rooms proposed by the appellant. 17. Aaron Jackson said that he welcomes the appellant and his family to the neighborhood. 18. Emilio Bidegain said he was there for the DR hearing and that he has no problem with the size of the proposed building and he feels the owner should be allowed to use as much of his land as he can. 18. Peter Csapo said he couldn't see how the character of the neighborhood would change if the proposed building is built and that there seems to be a double standard here since there are large buildings already built on Whitney and Chenery.19. Eduardo Paniagua, for himself and his wife, said that lifestyles are changing, therefore needing larger houses with larger rooms. He himself needs more space in his home for his family. 20. Zahid Sardar, and architect and designer for the Chronicle Magazine described how he tried to add three stories to his home and there was much opposition which was unfair to him. He thinks the proposed setback will reduce the impact on the neighborhood. 21. Joe O'Donoghue of the RBA said this kind of project should be encouraged on the few opportunity sites left in the City. The allegations made at the Commission that the owner intends to build other large houses is not true and he is not a developer but building a home for his family. 22. Ginger O'Reilly, wife of the appellant, said this is a dream house for her after living her life in small houses on Potrero Hill. 23. Brett Gladstone , attorney for appellant, explained the revisions made pursuant to the Board's directions at the public hearing and said the project meets the RDG's. He submitted proposed findings for adoption by the Board if they voted to grant the appeal. 24. Andrea Werlin, DR Requestor, said that the revisions were not significant and the fourth-story remains in the plans. She said the testimony of the attorney was not true as to the meetings between the parties and that no charges were made in the project after the neighbors expressed their opposition to the fourth story and the house is still too big and she supports the Planning Commission.

(6) **APPEAL NO. 01-078**

WILLIAM J. BUERSTER & PATRICIA CALDER, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1328 Noe Street.
[Protesting issuance on April 16, 2001, to
[Scott Miller, permit to Alter a Building (new
[ground floor covered vestibule; new first
[story living room over garage; new second
[story bedroom and bathroom)
[APPLICATION NO. 2000/02/10/1531S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit with the conditions as agreed to by the principals, who were present but did not speak.

(7) **APPEAL NO. 01-085**

KRISTEN ARKUSH, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[80 Mizpah Street.
[Protesting issuance on May 11, 2001, to [Christopher Olin and Regan Pritzker, permit [to Alter a Building (add new deck and stairs [at rear of house).
[APPLICATION NO. 2001/04/02/5750.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **UPHOLD** the subject permit.

SPEAKERS: 1. Kristen Arkush, appellant, said the deck had appeared suddenly and she was shocked by it since it can be seen from all her rooms. She said that the letter from the consultant was insulting and no way to work toward a compromise. 2. Jeremy Paul, consultant for permit holder, said it is a very small deck and the property abuts many other lots as shown on the Sanborn Map, and he feels she is being unfair since there is little privacy for anyone in such a densely built-up area. 3. Isolde Wilson, SP, PD, said that the deck meets the Planning Code standards. **Public Comment for Appellant:** 4. Jerry Topolos of 1012 Chenery said he is the most impacted by the deck, which takes half his view away, though he now lives in Sonoma County. 5. Carolyn Deacy of 1024 Chenery said she opposes the deck because it is out of scale with the neighborhood and invades the privacy of her back yard, since people on it can look down into the yard and she is concerned about noise from the deck. 6. David Valstad of 1006 Chenery said he was concerned about the deck's underpinning, which is made of materials that will rot and become an eye sore. **Public Comment for Permit Holder:** None. 7. Rafael Torres-Gil SBI, DBI, said he visited the site Tuesday and that it was not yet upgraded to a level that can be approved. The deck must be made of treated materials; the railings are not yet installed and will have see-through rails. The District Inspector had already fined the owner two times for working without a permit.

(8) **APPEAL NO. 01-097**

CORAZON L. ZHANG, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1750 - 27th Avenue.
[Protesting issuance on May 21, 2001, to [Byron & Gabby Smith, permit to Alter a [Building (construct new 12' X 19' rear deck).
[APPLICATION NO. 2001/05/21/9655.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to **UPHOLD** the subject permit.

SPEAKERS: 1. Corazon Zhang, appellant, said she opposes the deck because it invades her privacy. The original deck extended three feet and the new one is larger. 2. Byron Smith, co-permit holder, showed pictures of the old deck and complained that the appellant did not come to him before the concrete was poured, but he had talked to them before and they said it was alright with them, and now they could not work out an agreement. 3. Rafael Torres-Gil SBI, DBI, said he had visited the site earlier in the day and he had observed that there is four feet of yard on each side of the deck so no firewall was needed. **No Public Comment for Either Side.**

(9) **APPEAL NO. 01-094**

DWIGHT SIU, CLIFF FLORES &
MARGARET McCAIN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1550 - 22nd Street.
[Protesting issuance on May 17, 2001, to [Austin Harkin, permit to Erect a Building [(Four story, two-family dwelling with 1,875sf [of ground floor area.
[APPLICATION NO. 9913238S
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to **UPHOLD** the subject site permit, with a **FINDING** that the project is in conformity with the Residential Design Guidelines.

SPEAKERS: 1. Cliff Flores, co-appellant, read a letter from Maggie McCain, co-appellant, who could not attend the hearing. He said that Planning twice told her that the project had been cancelled and then the construction began. They feel it is out of scale with the neighborhood and that the building is too close to its neighbors and out of character with them, with insufficient open space and parking and will create a traffic problem. He said the architect did not take their concerns seriously. 2. Gary Gee, architect for permit holder, described the notices sent to the neighbors and described the compromises and revisions made to accommodate their concerns. He feels the building will add to the block's security since it is a key lot and will cut off access to the rear yards of the neighbors. 3. Dwight Siu, co-appellant, said that opposition to the project has brought the community together. 4. Isolde Wilson, SP, PD, said that the project was found compatible with the neighborhood which is of a mixed character and though the lot is unusual it still meets all the Code requirements. **Public Comment for Appellants:** None. **Public Comment for Permit Holder:** 5. Joe O'Donoghue said there is a towering wall next to his own house which looks down on him, and this was no reason to stop the project which will provide family-type housing in short supply in the City, and that there are very few lots in the City that can accommodate such projects. 6. Mack Burton said he supports the project because there is much crime on Potrero Hill and these kinds of projects provide jobs for the community which will benefit from this construction which will provide affordable housing.

(10) **APPEAL NO. 01-105**

DAWN OLSON,
HELEN TURNBULL, & RUTH MORALES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[17 Mirabel Avenue.
[Protesting issuance on June 18, 2001, to [Stacey Kayden, permit to alter a building [(build one car garage at front of building).
[APPLICATION NO. 2001/03/13/4133.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to **UPHOLD** the subject permit.

SPEAKERS: 1. Dawn Olson, co-appellant, said she is primarily opposed to the proposed garage because it will result in the loss of one street parking space and will benefit only the variance holder. It will hurt all the neighbors and will especially impact the older ones. She feels the garage is not needed and its public funding is wrong since it benefits only the owner. 2. Ruth Morales, co-appellant, said she lives at 15 ½ Mirabel and she opposes the garage because it will block light to her property and will present a solid wall to her. It represents too much privilege for one person. 3. Stacey Kayden, permit holder, said her project would be a benefit to the neighborhood and not a detriment. She needs a garage because she has a small child and it is scary to park at night at a distance from her house. She said she is bringing her home up to Code by adding a parking space. Her alternative was to cut into the living space of her rental unit, which was objectionable to her. The variance allows her to build in front of the property. She is willing to cooperate with the child-care operator on construction timing. 4. Isolde Wilson, SP, PD, said that the variance was granted because the five requirements were met and that the Code requires one off-street parking space for each unit. 5. Rafael Torres-Gil SBI, DBI, said he visited the site yesterday and that there is a priority under the Code for child care facilities. He said the additional light and ventilation being provided for the unit meets Code standards but that where the stair is over the property line three or four inches it will have to be corrected. **Public Comment for Appellants:** None. **Public Comment for Permit Holder:** 6. Craig Rubens said he must monitor recipients of grants from the Mayor' Office to low-income home owners, and in this case the recipient has been scrupulous in following all the regulations and rules and has educated herself in the process unlike most of the people he sees in his work out of the Bernal Heights Neighborhood Center. He said he lives in Oakland, and is a tenant and he loves his garage. 7. Wandralee Lindtzie said she is a next door neighbor and she feels that the changes being made accommodate all, are beautiful, and will add to the neighborhood.

There being no further business, President Chin adjourned the meeting at 8:55 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JULY 18, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ADOPTION OF FINDINGS:

ITEM A: 1299 Quesada Avenue. Appeal No. V01-051. On May 9, 2001, after public hearing, upon motion by President Chin, the Board voted 4-0 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator and **GRANT** the lot size variance to subdivide an existing corner lot into three lots.

REQUEST FOR JURISDICTION:

ITEM B: 3426-3428 Balboa Street. Letter from Philip Horne, attorney for Ahmed Riad, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04/04/6051.

Date Permit Issued: April 4, 2001.
Last Day to Appeal: April 19, 2001.
Date Jurisdiction Request Received: July 6, 2001.

07-13-01P12:36 RCVD

(4) **APPEAL NO. 01-035**

ROBERT HEYMANN, dba "NATIONAL RENTAL CAR",
Appellant

vs.

ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Appealing Zoning Administrator [determination dated January 23, 2001 that a [Police Permit Application Zoning Referral for [a Driverless Auto Rental business is [recommended for disapproval for failure to [meet various [policies and objectives of the [Planning Code and to resolve the issues [raised.
[PUBLIC TESTIMONY HEARD JUNE 13, [2001.
[FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000, [to K.M. Lo, permit to Erect a Building (six [unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING HELD & CLOSED [MARCH 7, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-098**

STEWART HANSEN & RICK O'CONNOR, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[3633-3635 Webster Street.
[Protesting issuance on May 22, 2001, to [Robert Little, permit to alter a building [(connect first floor with second floor).
[APPLICATION NO. 2001/05/22/9738.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-099**

MARY H. BUTLER, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[730 Olmstead Street.
[Protesting issuance on June 1, 2001, to [Annie Lee, permit to alter a building (legalize [roof deck, and construct two-story rear [horizontal addition above roof deck).
[APPLICATION NO. 2000/10/17/3177S.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-058**

JIMMY CHU, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2838 Sacramento Street.
[Appealing suspension on March 23, 2001, of [permit to Alter a Building for failure to [provide valid Section 311 Notification for [construction of off-street parking garage at [front and expansion of existing building to [the side and addition of new story on top.
[APPLICATION NO. 2000/08/11/7707S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-092**

MARILYN AMINI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[320 Wawona Street.
[Protesting issuance on May 8, 2001, to [Bethany Chaney and Bridget Wylie, permit [to Alter a Building (remodel existing [bathroom; construct new bathroom over [existing porch).
[APPLICATION NO. 2000/04/27/8488S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-101**

SUZANNE YEE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[479-483 Third Street.
[Protesting issuance on March 8, 2001, to [William Kee Leung, permit to alter a building [(removal of stove in unit 12 on third floor, [and construction of separation between [units on second floor).
[JURISDICTION GRANTED JUNE 20, 2001.
[APPLICATION NO. 2001/02/12/1923.
[FOR HEARING TODAY.

(11) **APPEAL NO. V01-086**

MAUREEN CROWE, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[368 Vallejo Street.
[Protesting granting on May 9, 2001 to [Susanna M. Dulkinys, Rear Yard Variance [to construct an underground addition at the [rear of an existing two-story single-family [dwelling.
[VARIANCE CASE NO. 2001.0001V
[FOR HEARING TODAY.

(12) **APPEAL NO. 01-091**

PIERRE-JOSEPH MARIE-ROSE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[272-74 Missouri Street.
[Protesting issuance on May 14, 2001, to [Christopher Thompson, permit to Alter a [Building (sprinkler building; add new top [story; upgrade electrical, mechanical, [plumbing systems; install new windows; [upgrade construction type to V-1hr).
[APPLICATION NO. 9910774S.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: July 12, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmen illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discu meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francis Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For m information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JULY 18, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

08-03-01A11:02 RCVD

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInemey.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Rafael Torres-Gil, Senior Building Inspector (SBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: 1. Commissioner McInerney asked about the status of a proposed ballot measure sent to the Board for comment. 2. Judith Boyajian, DCA, said the proposal had been tabled as far as the November ballot is concerned. 3. President Chin said the letter would be reconsidered once the proposal is again being considered by the Board of Supervisors.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ADOPTION OF FINDINGS:

ITEM A: 1299 Quesada Avenue. Appeal No. V01-051. On May 9, 2001, after public hearing, upon motion by President Chin, the Board voted 4-0 (Vice President Saunders absent) to **OVERRULE** the Zoning Administrator and **GRANT** the lot size variance to subdivide an existing corner lot into three lots.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to ADOPT the findings.

REQUEST FOR JURISDICTION:

ITEM B: 3426-3428 Balboa Street. Letter from Philip Horne, attorney for Ahmed Riad, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04/04/6051.

Date Permit Issued:	April 4, 2001.
Last Day to Appeal:	April 19, 2001.
Date Jurisdiction Request Received:	July 6, 2001.

ACTION: This matter was WITHDRAWN by the requestor prior to consideration.

SPEAKERS: None.

(4) **APPEAL NO. 01-035**

ROBERT HEYMANN, dba "NATIONAL RENTAL CAR", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Appealing Zoning Administrator [determination dated January 23, 2001 that a [Police Permit Application Zoning Referral for [a Driverless Auto Rental business is [recommended for disapproval for failure to [meet various [policies and objectives of the [Planning Code and to resolve the issues [raised.
[PUBLIC TESTIMONY HEARD JUNE 13, [2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to CONTINUE the matter for 6 months.

SPEAKERS: 1. Larry Badiner, ZA, said an agreement has been reached with the appellant but he wants the Board to retain jurisdiction until the appellant has proven to be a good neighbor. PUBLIC COMMENT FOR ZA: 2. Jeremy Paul, a concerned neighbor, said there has been positive change in the situation but it is necessary for the City to pay attention especially the multiple curb cuts that take up valuable curb parking for the public.

(5) **APPEAL NO. 01-002**

BUNNY CHIN, ANNA WONG, SHARON WONG & VICTOR YOUNG, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[68 Salmon Street.
[Protesting issuance on December 27, 2000, [to K.M. Lo, permit to Erect a Building (six [unit apartment building).
[APPLICATION NO. 9804165S.
[PUBLIC HEARING HELD & CLOSED [MARCH 7, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to UPHOLD the permit with the CONDITIONS as stipulated by the principals, and with the following additional CONDITIONS: that steam-cleaning be provided to 55 & 57 Salmon Street, and that a contact for complaints and information (name, telephone, pager, and address of the contractor) be given to all the appellants and Lady Shaw Senior Center.

SPEAKERS: 1. Jeremy Paul, agent for the permit holder, presented his construction management plan as requested by the Lady Shaw Senior Center. 2. Alice Barley, attorney for Lady Shaw Senior Center, said she received the plan at 5:00 p.m. and she asked that additional conditions be added to the permit holder" proposed construction plan, that a contact person be named for her client to contact is there are any problems during construction, and that this was acceptable to the permit holders. 3. Cynthia Lee, agent for the appellants, said that her group has had no time to review the proposed construction management plan prior to the meet in and that there are four items of concern to her group; that there be minimal disruption to Salmon Street especially the turning traffic area, that a liaison be named so they have someone to call if there are problems for any of the neighbors, and that 55 and 67 Salmon get the same steam cleaning after construction as was promised to 65 Salmon. She said her group had asked Planning about a DR request in October 2000, but had never received an answer to their request although their check for the DR fee had been cashed. 4. Larry Badiner, ZA, said a note in the file says the DR request had been withdrawn and he was told the neighbors were satisfied. He said the DR issue must be addressed and that he will check into it and follow up. 5. Jeremy Paul, agent for the permit holder, said he will provide contact information and will steam clean the mentioned buildings. 6. Alice Barkley, attorney for Lady Shaw Senior Center, said only the Board of Supervisors can grant access to the City's easement over City property as far as the gate is concerned. NO PUBLIC COMMENT FOR EITHER SIDE.

(6) **APPEAL NO. 01-098**

STEWART HANSEN & RICK O'CONNOR, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[3633-3635 Webster Street.
[Protesting issuance on May 22, 2001, to
[Robert Little, permit to alter a building
[(connect first floor with second floor).
[APPLICATION NO. 2001/05/22/9738.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to REVOKE the subject permit.

SPEAKERS: 1. John Little, owner and permit holder, said that there is no kitchen in the lower unit which he occasionally sleeps in when he is working in the City. The stairs will connect lower rooms with unit above, meeting the zoning of the property. 2. William Weisberg, attorney for appellants, said that this matter should be sent back to the Planning Commission for a DR hearing since the project would result in the loss of a dwelling unit since the building will go from three to two units and will eliminate his clients' unit. This is not just the installation of a stairway. 3. Rafael Torres-Gil, SBI, DBI, said that the lower rooms are for storage use only and are not habitable as set forth in the NSR recorded on the land records. 4. John Riccio, attorney for the permit holder, said that the core issue is the number of dwelling units on the property and that it has always been a two-unit building as is stated on the permit application and the plans by Abraham Zavala were approved, and this a landlord-tenant matter and his client must care for his son who is paralyzed and needs the space for when he stays in the City. 5. Abraham Zavala, engineer for the permit holder, explained his understanding of the use of the building. 6. Larry Badiner, ZA, said the NSR was necessary for the approval of the permit in the 1970's and that the lower level rooms are for storage use only and do not constitute a separate dwelling unit since there is no kitchen, a requirement for a dwelling unit under the Planning Code, though they could be deemed accessory to the unit above. The present use appears to violate the NSR and the Code. The Commission policy regarding mergers of legal units, and not removal of illegal units. 7. Rafael Torres-Gil, SBI, DBI, explained the permit history of the building, and said the lower level has always been for storage use only, and there is no bathroom as well as no kitchen.

(7) **APPEAL NO. 01-099**

MARY H. BUTLER, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[730 Olmstead Street.
[Protesting issuance on June 1, 2001, to
[Annie Lee, permit to alter a building (legalize
[roof deck, and construct two-story rear
[horizontal addition above roof deck).
[APPLICATION NO. 2000/10/17/3177S.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to CONTINUE the matter to August 22, 2001, with the public hearing CLOSED.

SPEAKERS: 1. Mary Butler, appellant, said the primary issue for her is that the project is built to the property line and no firewall is being installed which she feels creates a hazard. 2. Jerry Klein, agent for the permit holder, said this would not be a roof deck but is an extension at the rear. The permit is to legalize construction and to meet the Codes. He said the project has been pulled back three feet from the property line so that no fire wall is required, and the deck stepped back to reduce the impact on the neighbors, and the project is to Code, correcting all violations. The penalty has been paid for the work done without a permit and was reduced to two times the regular fee because the original $5,000.00 penalty was deemed draconian. 3. Larry Badiner, ZA, said that proper Section 311 notice was sent out and that no requests for DR were received, although the planner reviewing the plans requested a setback to mitigate the impact on the appellant, and the computer was proper is an accessory use with no outside employees. No non-residential improvements can be approved in this residential zoning district. 4. Rafael Torres-Gil, SBI, DBI, gave the permit history of the building and explained the Notice of Violation that was issued in September 2000. He said that all the work would be inspected and required to be safe before the project is signed off. He said the chief inspector has seen the plans and said it is a habitable room which requires light and ventilation if it is a bedroom, which the district inspector will determine. PUBLIC COMMENT FOR APPELLANT: 5. Mati Bates of 7 Olmstead Street said she had submitted a letter with a sketch

pointing out how she feels the project would impact her addition. She feels the new wall lacks integrity with the addition on top built without permits. 6. Abraham Zavala, engineer for the appellant, said that he is concerned about privacy and safety. NO PUBLIC COMMENT FOR THE PERMIT HOLDER.

(8) **APPEAL NO. 01-058**

JIMMY CHU, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2838 Sacramento Street.
[Appealing suspension on March 23, 2001, of [permit to Alter a Building for failure to [provide valid Section 311 Notification for [construction of off-street parking garage at [front and expansion of existing building to [the side and addition of new story on top.
[APPLICATION NO. 2000/08/11/7707S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to OVERRULE the suspension, and GRANT the subject permit with the following CONDITIONS: that the window in the media room be removed, that the roof deck be eliminated, that the second floor be setback 3'6", and that white reflective paint be used on the westerly wall of the subject property.

SPEAKERS: 1. Larry Badiner, ZA, explained the reason for the suspension of the permit, the lack of proper Section 311 notice to the neighbors of this project; the renovation of an historical Victorian, though not a designated landmark. 2. Jeremy Paul, agent for the appellant, said he had agreement from concerned neighbors for revisions to the plans that his client was willing to make which will preserve the Victorian character of the building. 3. Andrew Zacks, attorney for the appellant, said that the permit has vested under California law and that the Permit Streamlining Act also required the approval of the permit and the lifting of the suspension based on the time that has elapsed since the application was filed and the requirement that once the application has been deemed complete and accepted the City has one year to review and there it is considered approved by operation of law. PUBLIC COMMENT FOR ZA: 4. Katherine Philippakis, attorney for the abutting neighbor, said the issue remains the failure to give proper Section 311 notice that would have given neighbors a chance to request DR review by the Planning Commission. She said she did contact the Planning Department but was told that modifications to the plans would be required by staff to meet the concerns of the neighbors regarding the blockage of light and air and privacy that will be lost due to the project, so no DR was required. But the final plans are not what the neighbors agreed to. Asked that the plans be sent back to the Commission for further review and modification. 5. Ian Berke, Vice President of the Pacific Heights Residents' Association, said he supports the stop work order because the project is really a new three-story building along the East property line, and the addition is too large while the façade should be preserved. The neighbors feel cheated because nothing informed them that this is a Jimmy Jen project. He agreed to a notch to protect neighbors. 6. Jon Yolles said he was most concerned with the loss of light and air. He is the client of Ms. Philippakis. The plans given to the neighbors do not match the earlier plans and the modifications the appellant said would be done were not done. But he does not want the project delayed just the small changes made: the three-foot notch on the west side. 7. Jorge Torres, said that he was never notified. He wants removal of deck and window on second floor and a six-foot setback at the front of the building. NO PUBLIC COMMENT FOR APPELLANT.

(9) **APPEAL NO. 01-092**

MARILYN AMINI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[320 Wawona Street.
[Protesting issuance on May 8, 2001, to [Bethany Chaney and Bridget Wylie, permit [to Alter a Building (remodel existing [bathroom; construct new bathroom over [existing porch).
[APPLICATION NO. 2000/04/27/8488S.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: 1. Marilyn Amini, appellant, said that a successful relocation of the electrical connection to the permit holder's house may have been done but it took 70 days to do the work and it caused her to fear failure to do the relocation during that period. Another hurdle under PG&E's green book Section 5.2 is that PG&E was not consulted. She questioned the issuance of the 1979 permit for the permit holder's house expansion and asked the Board to initiate a thorough investigation of that matter and she feels was not properly done then. She said the records are not to be found and the process was not improper for their rear addition. Even the inspector said it was not a lawful addition. 2. Bethany Chaney, co-permit holder, said they have done what PG&E wanted and the plans she submitted will straighten out all the problems remaining. 3. Rafael Torres-Gil, SBI, DBI, said there has been a final inspection for the electrical work and that wires no longer cross the appellant's property. The 1979 work was approved and signed off at that time and his review shows the process was correct. 4. Bridget Wiley, co-permit holder, said there was now full compliance with PG&E's requirements. NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 01-101**

SUZANNE YEE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[479-483 Third Street.
[Protesting issuance on March 8, 2001, to [William Kee Leung, permit to alter a building [(removal of stove in unit 12 on third floor, [and construction of separation between [units on second floor).
[JURISDICTION GRANTED JUNE 20, 2001.
[APPLICATION NO. 2001/02/12/1923.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to RECUSE President Chin. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin recused) to UPHOLD the permit with the following CONDITIONS: that the appellant be allowed to stay in the unit during construction, that the appellant be given at least 48 hours notice prior to any work, and that the work be performed during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

SPEAKERS: 1. Sue Ma, representing the appellant, said she accepted President Chin's apology for his remarks at the last meeting. 2. Suzanne Yee, appellant, said that the landlord now said she could remain in the unit while the work was done. 3. Ken Vierra, attorney for the permit holder, said his client has no objection to the appellant remaining in her apartment while the work goes on. He said he would stipulate to the condition and the work would be done between 8 a.m. and 5 p.m. Monday through Friday if the permit is reinstated. 4. He added that the landlord would give the appellant 24 hours notice of when the work would commence. He said the job itself would probably take five days to do and the completion of the permit process will take five or six weeks and that his client will give 48 hours written notice to the appellant before work begins on the apartment. NO PUBLIC COMMENT FOR EITHER SIDE.

(11) **APPEAL NO. V01-086**

MAUREEN CROWE, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[368 Vallejo Street.
[Protesting granting on May 9, 2001 to [Susanna M. Dulkinys, Rear Yard Variance [to construct an underground addition at the [rear of an existing two-story single-family [dwelling.
[VARIANCE CASE NO. 2001.0001V
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject variance with the following CONDITIONS: that Finding No. 1 in the variance decision be amended with language that indicates the subject property is burdened by easements on the southern and western boundaries, that plans be resubmitted to reflect that the appellant's building is 53.5' long and not 55' long, and that the second floor of the subject building remain with a 10' setback from the appellant's property.

SPEAKERS: 1. Larry Badiner, ZA, explained why the variance had been granted and that the alleged encroachments onto the appellant's property are not relevant to the variance, although he knew of the

encroachment at the time of his decision. He added that retaining walls and underpinning are covered by the Building Code and the Civil Code. 2. Maureen Crowe, appellant, said her house is perpendicular to the subject property and that the variance holder's lot is not rectangular as shown on the plans, and the proposed building is 53.5' long and not 55' as shown, and the plans need to be corrected, and they should show accurately the adjacent buildings which are not shown now. 3. David Cincotta, attorney for the variance holder, said that the appellant is correct and the construction plans will be revised to show correct dimensions. These facts make the site even more extraordinary under Requirement No. 1. He added that the underpinning will be done in consultation with the appellant and if she does not agree to it his client will do the engineering entirely on her property. PUBLIC COMMENT FOR APPELLANT: 4. Jerry Klein said he had helped the appellant but is not her agent. He explained his understanding of Section 832 of the Civil Code. He said he is not an attorney but has many years experience with these problems. 5. David Lee of 372 Vallejo said that he owned the property adjacent to the subject property and he objects to the granting of this variance and feels that Requirement 4 is not met and that the variance decision is inconsistent as to design and the easement was ignored. He has an easement too, for right of way. His greatest concerns are the stairway and the underpinning. He has no confidence it will be done right. 6. Suzanne Dulkinys, variance holder, said she will take responsibility for any damage to neighbors' properties done by her construction.

(12) **APPEAL NO. 01-091**

PIERRE-JOSEPH MARIE-ROSE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[272-74 Missouri Street.
[Protesting issuance on May 14, 2001, to [Christopher Thompson, permit to Alter a [Building (sprinkler building; add new top [story; upgrade electrical, mechanical, [plumbing systems; install new windows; [upgrade construction type to V-1hr).
[APPLICATION NO. 9910774S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 2-3 (President Chin, Vice President Saunders, and Commissioner Cullum dissented) to uphold the subject permit with no conditions. Four votes being necessary to overturn any departmental action, the motion PASSED and the permit was UPHELD with NO CONDITIONS.

SPEAKERS: 1. Marjorie Marie-Rose, mother of appellant, said that she relied on her letter to explain her objections to the project, which will force her to close off various windows along her lot line. She wants the Board to order the permit holder to pay for the work and for a skylight on her building to make up for the light lost. She feels the proposal is not in keeping with the adjacent properties. 2. Christopher Thompson, permit holder, said that he is tired of the delays caused by the appellant and no longer agreed to pay for closing off her windows since that offer was made with the understanding she would not delay hi9m further and now she has protested his permit which he originally filed in August 1997. The offer is no longer on the table. He added that her rooms would still have light sources after the property line windows are closed off and she does not live there but it is s rental building so it won't affect her at all. He said his last offer was $6180.00, which was not accepted. 3. Pierre Joseph Marie-Rose, appellant, said there was a DR hearing after which the Planning Director suggested he file an appeal at this Board. PUBLIC COMMENT FOR PERMIT HOLDER: 4. Joan Nolte said the neighbors want the project to go forward since it is presently an eye sore. 5. Don Nolte, said he is appalled at the delay caused the permit holder by the appellant. He said it was a wonderful plan but that there has been no work done in two years because of the delay. NO PUBLIC COMMENT FOR THE APPELLANT.

There being no further business, President Chin adjourned the meeting at 9:48 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, AUGUST 1, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

JUL 3 0 2001

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 1592-1594 Golden Gate Avenue. Letter from Alice R. Lane, conservator for Elizabeth Jamerson, appellant, requesting rehearing of Appeal No. 00-181 heard on February 28, 2001. Upon motion by Commissioner McInerney, the Board voted 2-2 (President Chin and Commissioner El Qadah dissented, Vice President Saunders absent) to **UPHOLD** the Zoning Administrator's determination that there was sufficient evidence to constitute clear intent on the part of the owner to abandon the Limited Commercial Use for the subject property. Four votes are needed to overrule and the determination was **UPHELD**.

ITEM B: 356 – 11th Street. Letter from Carlton Solle, co-appellant, requesting a rehearing of Appeal No. 01-062, heard June 13, 2001. Upon motion by President Chin, the Board voted 5-0 to **OVERRULE** the subject determination, with the appellants' use not deemed to be a place of entertainment and therefore not required to obtain a Place of Entertainment/Dance Hall Keeper permit from the Police Department with the following **CONDITIONS**: that no paid disc jockey (DJ) operate the CD player(s) or turntable(s), which are only to be operated by staff, including serving staff, bartenders, and managers; and that all tips be equally divided among staff.

07-30-01A11:34 RCVD

REQUESTS TO SET ASIDE RULES:

ITEM C: 696 Pennsylvania Avenue. Appeal 01-042. Request from Peter Keith, Deputy City Attorney, and Larry Badiner, Zoning Administrator, dated July 11 and July 16, 2001, respectively, that the Board set aside its rules and grant a rehearing in Appeal 01-042 for the reason the Board erred in interpreting the Planning Code provisions regulating live-work units. Appeal 01-042, R.A.M. Development, Inc., vs. Zoning Administrator was heard May 9, 2001; upon motion by Commissioner Cullum, the Board voted 1-4 (President Chin, Vice President Saunders, Commissioner El Qadah, and Commissioner McInerney dissented) to **UPHOLD** the subject determination. Two votes being necessary to uphold any departmental action, the motion **FAILED**. Afterwards, upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **OVERRULE** the subject determination with **FINDINGS** prepared by the appellant's attorney.

REQUEST FOR JURISDICTION:

ITEM D: 420 Collingwood Street. Letter from David Williamson & Susan Compeau, requesting that the Board take jurisdiction over Building Permit Application Nos. 9913275 & 991372S. Permit Holder: John Williams.

Date Permits Issued:	May 30, 2001
Last Day to Appeal:	June 14, 2001
Date Jurisdiction Requests Received:	July 13, 2001

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 01-083**

ANNA TAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[416 -15th Avenue.
[Appeal for Refund of Penalty imposed on
[May 16, 2001.
[APPLICATION NO. 2001/04/26/7752.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 01-117**

PAULA JIANG, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent

[515 – 14th Avenue.
[Appeal for Refund of Penalty imposed on
July [9, 2001 for work done without a permit.
[APPLICATION NO.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-095**

BHAVNA B. SHAH, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on May 21, 2001, of Taxicab
[Medallion no. 1122.
[RESOLUTION NO. 2000-41.
[FOR HEARING TODAY.

(6) **APPEAL NO. 01-093**

FLOYD K. FOSTER & CAROLYN DICKINSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[585 Laidley Street.
[Protesting issuance on May 9, 2001, to
[Sandra and Manny Alvarenga, Permit to
[Alter a Building (add one story of occupancy
[to existing two-story dwelling; enlarge
[existing bedroom on second floor; remodel
[existing kitchen; remove existing posts in
[garage and widen door to 12 feet; and
[seismic upgrade).
[APPLICATION NO. 9923677S.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-100**

JACK & MILDRED BLUMENKRATZ, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[3535 Clement Street.
[Protesting issuance on June 5, 2001, to
[Joanne Nakano, Permit to Alter a Building
[(addition of glass wind screen to existing
[permit for rear yard deck).

[APPLICATION NO. 2001/06/05/0795.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-102**

BARBARA HIRSCHFELDER-HANEN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2979 Lake Street.
[Protesting issuance on June 11, 2001, to [Willard Nutting, Permit to Alter a Building [(construction of six foot lattice fence, [addition of decorative screen as horizontal [extension to existing fence, and abate [Notice of Violation # 200012275).
[APPLICATION NO. 2001/06/11/1222.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-103**

IRENE LEE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[807 Columbus Avenue.
[Protesting issuance on May 7, 2001, to [Michael Strausz, Permit to Alter a Building [(two-story vertical addition of six units over [an existing one-story commercial structure).
[APPLICATION NO. 9826331S.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

Items (10A) through (10D) shall be heard together

(10A) **APPEAL NO. 01-087**

DUNCAN MEANEY, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

(10B) **APPEAL NO. 01-088**

EUGENE STLUKA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

(10C) **APPEAL NO. 01-089**

SCOTT SANDEZ, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

(10D) **APPEAL NO. 01-090**

LYNN TRIEV, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-104**

JOHN O'MALLEY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1280 Hampshire Street.
[Appeal of Notice of Violation dated June 7, [2001, that the subject property, located in a [Residential House district (RH-3), is being [used for a non-residential industrial purpose [(painting contractor's establishment), in [violation of Planning Code Sections 209 [through 209.9.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: July 26, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, websit www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, AUGUST 1, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Jim Nixon, Acting Zoning Administrator (AZA); Laurence Kornfield, Chief Building Inspector (CBI, DBI); Paul Zarefsky, Deputy City Attorney, representing the Taxicab Commission (DCA); Officer Farrell Suslow, Police Dept., representing the Taxicab Commission; and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: 1. Joe O'Donoghue of the RBA explained the history of Prop M which he said did not include anything about housing, but rather was intended to regulate high-rise office buildings, with the measure being adopted by 50.1% of the voters. On Item 3C, he said it is an anomaly of government that the Board of Supervisors has a double standard trying to replace the members of the Board of Appeals. He said that the case involved four units with four tenants and that the units were built with a high degree of quality.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: 1. Commissioner McInerney asked the Judith Boyajian, DCA, about the memo from the City Attorney regarding political contributions. 2. Ms. Boyajian said she would review the matter and report back to the Board at a meeting in the future.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUESTS FOR REHEARING:

ITEM A: 1592-1594 Golden Gate Avenue. Letter from Alice R. Lane, conservator for Elizabeth Jamerson, appellant, requesting rehearing of Appeal No. 00-181 heard on February 28, 2001. Upon motion by Commissioner McInerney, the Board voted 2-2 (President Chin and Commissioner El Qadah dissented, Vice President Saunders absent) to **UPHOLD** the Zoning Administrator's determination that there was sufficient evidence to constitute clear intent on the part of the owner to abandon the Limited Commercial Use for the subject property. Four votes are needed to overrule and the determination was **UPHELD**.

ACTION: Upon motion by President Chin, the Board voted 5-0 to RESCHEDULE the matter to August 22, 2001.

SPEAKERS: 1. Jim Nixon, AZA, said the ZA does not approve of a rescheduling of the matter.

ITEM B: 356 – 11th Street. Letter from Carlton Solle, co-appellant, requesting a rehearing of Appeal No. 01-062, heard June 13, 2001. Upon motion by President Chin, the Board voted 5-0 to **OVERRULE** the subject determination, with the appellants' use not deemed to be a place of entertainment and therefore not required to obtain a Place of Entertainment/Dance Hall Keeper permit from the Police Department with the following **CONDITIONS**: that no paid disc jockey (DJ) operate the CD player(s) or turntable(s), which are only to be operated by staff, including serving staff, bartenders, and managers; and that all tips be equally divided among staff.

ACTION: This matter was WITHDRAWN prior to consideration.

SPEAKERS: The President reported that the requestor Mr. Solle had telephoned him to say his request for rehearing has been withdrawn and that he would not make an appearance.

REQUESTS TO SET ASIDE RULES:

ITEM C: 696 Pennsylvania Avenue. Appeal 01-042. Request from Peter Keith, Deputy City Attorney, and Larry Badiner, Zoning Administrator, dated July 11 and July 16, 2001, respectively, that the Board set aside its rules and grant a rehearing in Appeal 01-042 for the reason the Board erred in interpreting the Planning Code provisions regulating live-work units. Appeal 01-042, R.A.M. Development, Inc., vs. Zoning Administrator was heard May 9, 2001; upon motion by Commissioner Cullum, the Board voted 1-4 (President Chin, Vice President Saunders, Commissioner El Qadah, and Commissioner McInerney dissented) to **UPHOLD** the subject determination. Two votes being necessary to uphold any departmental action, the motion **FAILED**. Afterwards, upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to **OVERRULE** the subject determination with **FINDINGS** prepared by the appellant's attorney.

ACTION: Upon motion by Commissioner Cullum, the Board voted 2-3 (Vice President Saunders, Commissioner McInerney, and Commissioner El Qadah dissented) to SUSPEND the rules and GRANT a rehearing. Four votes being necessary to suspend Board rules, the motion FAILED.

SPEAKERS: 1. Peter Keith, DCA, requested the Board set aside its rules and on its own motion grant a rehearing in the matter. He said the request was made by Supervisor McGoldrick and that his office has investigated the matter and determined that the Board misinterpreted the Planning Code provisions regarding live-work units and should rant a rehearing to correctly decide the matter, thus making a writ by the City Attorney unnecessary, saving the City much money. 2. Judith Boyajian, DCA, said she agrees with Mr. Keith and that she should have advised the Board to this effect during the public hearing on the matter. 3. Jim Nixon, AZA, said that there are no definitions of work or resident in the Planning Code. He described the enforcement activities of the Planning Department following complaints from the public of unlawful use of the subject live-work units. He said the ZA can make interpretations of these matters would be appealable to the Board of Appeals. He said the site visits by Planning revealed no violations in 27 of the buildings and that Planning is still trying to make site visits to the three remaining buildings on the list. 4. Michael Spaer, owner of the subject building and principal at R.A.M. Development, asked that this matter be continued to August 15, so that his attorney could be present and he felt that the City Attorney asked that different rules be applied to Supervisor McGoldrick than applied to him.

REQUEST FOR JURISDICTION:

ITEM D: 420 Collingwood Street. Letter from David Williamson & Susan Compeau, requesting that the Board take jurisdiction over Building Permit Application Nos. 9913275 & 991372S. Permit Holder: John Williams.

Date Permits Issued:	May 30, 2001
Last Day to Appeal:	June 14, 2001
Date Jurisdiction Requests Received:	July 13, 2001

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to CONTINUE the matter to August 8, 2001.

SPEAKERS: 1. Susan Compeau, requestor, asked that the Board allow her to file a late appeal because no notice had posted about the project. She said she would withdraw the request if the permit holder would revise his plans

to have a solid wall instead of an open railing. 2. Steven Vettel, attorney for the permit holder, responded that the plans were worked out with the other neighbors so that his client could not now change the plans without breaking his agreement with them; but he was willing to go back to the homeowners association with the proposal of the requestor and report back to the board of the result next week.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceeded to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code.

(4A) **APPEAL NO. 01-083**

ANNA TAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[416 -15th Avenue.
[Appeal for Refund of Penalty imposed on [May 16, 2001.
[APPLICATION NO. 2001/04/26/7752.
[FOR HEARING TODAY.

ACTION: This matter was RECHEDULED to September 12, 2001 prior to hearing.

(4B) **APPEAL NO. 01-117**

PAULA JIANG, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent

[515 – 14th Avenue.
[Appeal for Refund of Penalty imposed on July [9, 2001 for work done without a permit.
[APPLICATION NO.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to REDUCE the subject penalty to two times the regular fee.

SPEAKERS: The appellant was present but did not speak.

(5) **APPEAL NO. 01-095**

BHAVNA B. SHAH, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Revocation on May 21, 2001, of Taxicab [Medallion no. 1122.
[RESOLUTION NO. 2000-41.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-1 (Commissioner McInerney dissented) to OVERRULE the subject revocation and replace it with a one-year suspension.

SPEAKERS: 1. Paul Zarefsky, DCA, asked the Board to uphold the revocation of the appellant's medallion because she had failed to drive her cab as required by the taxicab regulations. He said this was an egregious case because the appellant had not driven at all, and there was no medical documentation of her alleged medical problems. He also said that the appellant has signed three Police declarations under penalty of perjury that she understands the driving rules and still has never driven as required. 2. Jeffrey Rotwein, attorney for appellant, said his client had not driven for medical reasons and that revocation was too harsh a penalty for a woman raising two children for whom them income generated by the medallion is vitally necessary. 3. Inspector Farrell Suslow of the Taxi Detail said that even if the medallion is revoked the appellant can still drive a taxi operated under someone else's medallion.

(6) **APPEAL NO. 01-093**

FLOYD K. FOSTER & CAROLYN DICKINSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[585 Laidley Street.
[Protesting issuance on May 9, 2001, to [Sandra and Manny Alvarenga, Permit to [Alter a Building (add one story of occupancy [to existing two-story dwelling; enlarge [existing bedroom on second floor; remodel [existing kitchen; remove existing posts in [garage and widen door to 12 feet; and [seismic upgrade).
[APPLICATION NO. 9923677S.
[FOR HEARING TODAY.

ACTION: This matter was RESCHEDULED to September 12, 2001, prior to hearing.

(7) **APPEAL NO. 01-100**

JACK & MILDRED BLUMENKRATZ, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[3535 Clement Street.
[Protesting issuance on June 5, 2001, to [Joanne Nakano, Permit to Alter a Building [(addition of glass wind screen to existing [permit for rear yard deck).
[APPLICATION NO. 2001/06/05/0795.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 2-3 (Commissioner Cullum, Commissioner McInerney and Commissioner El Qadah dissented) to uphold the subject permit. Four votes being necessary to overturn any departmental action, the motion PASSED and the permit was UPHELD.

SPEAKERS: 1. Mildred Blumenkratz, co-appellant, said the subject deck was enclosed and the project failed to meet the approved plans and it intrudes on the available open space. She said that the revised plans do not show a glass windscreen which is like a room, not just a deck. 2. Henry Herold, architect for the permit holder, said the design of the project was fine and that the project is complete and has been signed off by the inspector after it was approved by Planning. He showed plans and pictures to show it is a deck and not an enclosed room. 3. Jim Nixon, AZA, said that the rear yard standards would permit an extension of the building much larger than the subject deck. He said the plans show the latticework is on the side of the deck away from the appellant's property. He said the deck permit would not be required to have Section 311 Notice. He said the photo showed a project that was not according to the approved plans. 4. Laurence Kornfield, CBI, DBI, said that glass screen was completely contained around its edges, so in compliance with the Building Code. 5. Jack Blumenkratz, co-appellant, said that the permit holder has created a monstrosity and that no one will deal with it. 6. Joanne Nakano, permit holder, said that all she was seeking was a deck and not a room, and that she is not willing to take down the deck because the cost would be prohibitive.

(8) **APPEAL NO. 01-102**

BARBARA HIRSCHFELDER-HANEN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[2979 Lake Street.
[Protesting issuance on June 11, 2001, to [Willard Nutting, Permit to Alter a Building [(construction of six foot lattice fence, [addition of decorative screen as horizontal [extension to existing fence, and abate [Notice of Violation # 200012275).
[APPLICATION NO. 2001/06/11/1222.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: 1. Robert Epstein, attorney for the appellant, said his client is an elderly woman unable to attend the hearing who wants to retain her view of the Golden Gate Bridge from the front steps, though her view from the inside of the house will not be obstructed. 2. Willard Nutting, permit holder, explained his project with photos to show the existing condition of the subject fence. He said the fence does not rise high enough to obstruct anyone's view. 3. Jim Nixon, AZA, said that he has reviewed the plans and there is no Planing Code problem with them. He explained the legislative setback involved.

(9) **APPEAL NO. 01-103**

IRENE LEE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[807 Columbus Avenue.
[Protesting issuance on May 7, 2001, to [Michael Strausz, Permit to Alter a Building [(two-story vertical addition of six units over [an existing one-story commercial structure).
[APPLICATION NO. 9826331S.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to RESCHEDULE the matter to August 8, 2001.

SPEAKERS: 1. David Cincotta, attorney for the permit holder, asked for a one-week continuance. 2. Irene Lee, appellant, agreed with Mr. Cincotta.

Items (10A) through (10D) were heard together

(10A) **APPEAL NO. 01-087**

DUNCAN MEANEY, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

(10B) **APPEAL NO. 01-088**

EUGENE STLUKA, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

(10C) **APPEAL NO. 01-089**

SCOTT SANDEZ, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

(10D) **APPEAL NO. 01-090**

LYNN TRIEV, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[646 - 19th Avenue.
[Protesting issuance on May 7, 2001, to [Henry Ong, Permit to Erect a Building [(three-story two-unit dwelling)
[APPLICATION NO. 2000/04/18/7535S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to UPHOLD the subject permit with CONDITIONS as stipulated to by the principals.

SPEAKERS: 1. Patrice Fambrini, agent for the permit holder, confirmed to the Board that a settlement has been reached with all the appellants.

(11) **APPEAL NO. 01-104**

JOHN O'MALLEY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1280 Hampshire Street.
[Appeal of Notice of Violation dated June 7, [2001, that the subject property, located in a [Residential House district (RH-3), is being [used for a non-residential industrial purpose [(painting contractor's establishment), in [violation of Planning Code Sections 209 [through 209.9.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to RESCHEDULE the matter to August 22, 2001, and for the matter to be placed first on the calendar, and with a directive that the Department of Building Inspection (DBI) investigate the life/safety issues at the subject property and for DBI to report back to the Board on said issues on August 8, 2001.

SPEAKERS: 1. Jim Nixon, AZA, explained how the use of the residentially zoned property for paint storage of a painting contractor was a violation of the use provisions of the Planning Code and that the property has never been zoned for painting contractor's storage of paint, that the use has never been legal and thus cannot now be deemed a lawful non-conforming use. 2. John O'Malley, appellant, asked that the matter be continued so that his attorney Fred Campagnoli can be present to represent him. 3. Richard Kazakoff, painting contractor at the subject property, supported the appellant's request. PUBLIC COMMENT FOR THE ZA: 4. Michael Sweeney said the neighbors have filed eighty complaints over the past year about the toxic mess created by the use, including Planning, HAZMAT, Fire Dept., and for a DR hearing at the Planning Commission. He said the neighbors are concerned with safety. 5. Renee Moreno said she is a graphics designer who lives across the street and that she has seen the garbage man being paid to haul away double bagged waste from the site and that her health has been degraded by her proximity to the toxic site, including shortness of breath. 6. Donna Levey said she lives next door and that the sidewalk is fouled by paint and urine from under the garage door of the subject property from workers there and that dogs and children can't be taken in a stroller on the sidewalk because it is so befouled. NO PUBLIC COMMENT FOR APPELLANT.

There being no further business, President Chin adjourned the meeting at 9:05 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, AUGUST 8, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION & OTHER CORRESPONDENCE:**

SPECIAL REPORT:

ITEM A: 1280 Hampshire Street. Appeal 01-104. Report from the representative of the Department of Building Inspection concerning the life/safety issues at the subject property. HEARING CONTINUED TO AUGUST 22, 2001.

REQUESTS FOR REHEARING:

ITEM B: 272-274 Missouri Street. Letter from Marjorie Marie-Rose, agent for Pierre Joseph Marie-Rose, Appellant, requesting rehearing of Appeal 01-091, heard July 18, 2001. Upon motion by Commissioner McInerney, the Board voted 2-3 (President Chin, Vice President Saunders, and Commissioner Cullum dissented) to uphold the subject permit with no conditions. Four votes being necessary to overtum any departmental action, the motion **PASSED** and the permit was **UPHELD** with **NO CONDITIONS**. Permit Holder: Christopher Thompson.

ITEM C: 320 Wawona Street. Letter from Marilyn Amini, Appellant, requesting rehearing of Appeal No. 01-092, heard July 18, 2001. Upon motion by Vice President Saunders, the Board voted 5-0 to **UPHOLD** the subject permit. Permit Holders: Bethany Chaney & Bridget Wylie.

REQUESTS FOR JURISDICTION:

ITEM D: 420 Collingwood Street. Letter from David Williamson & Susan Compeau, requesting that the Board take jurisdiction over Building Permit Application No(s). 9913275 & 991372S. Permit Holder: John Williams. PUBLIC TESTIMONY HEARD AUGUST 1, 2001. FOR FURTHER CONSIDERATION TODAY.

Date Permits Issued:	May 30, 2001
Last Day to Appeal:	June 14, 2001
Date Jurisdiction Requests Received:	July 13, 2001

ITEM E: 430 Lansdale Avenue. Letter from Virginia Scarborough, requesting that the Board take jurisdiction over Building Permit Application No(s). 2000/04/03/6197 & 2001/02/08/1671. Permit Holder: Siba Tarassoly.

Date Permits Issued:	October 30, 2000 & February 8, 2001, respectively.
Last Day to Appeal:	November 14, 2000 & February 23, 2001, respectively.
Date Jurisdiction Requests Received:	July 31, 2001.

(4) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[699 Paris Street.
[Denial on March 20, 2001, of Minimum Lot [Size, Rear Yard, and Front Yard Variance [sought to subdivide a previously subdivided [3,150 s.f. corner parcel into two lots with the [new proposed vacant lot equaling [approximately 1,260 s.f., and construct a [new three story, single family dwelling on [the proposed subdivided vacant lot.
[VARIANCE CASE NO. 2000.870V
[PUBLIC TESTIMONY HEARD JUNE 20, [2001.
[FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 01-103**

IRENE LEE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[807 Columbus Avenue.
[Protesting issuance on May 7, 2001, to [Michael Strausz, Permit to Alter a Building [(two-story vertical addition of six units over [an existing one-story commercial structure).
[APPLICATION NO. 9826331S.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(6) **APPEAL NO. 01-106**

SHARON CASSIDY, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[3441 – 26TH Street.
[Protesting issuance on June 13, 2001, to [Andrew Dunbar, Permit to Alter a Building [(legalize roof deck).
[APPLICATION NO. 2001/06/13/1424.
[FOR HEARING TODAY.

Items (7A) through (7D) shall be heard together

(7A) **APPEAL NO. 01-109**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2712.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-110**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2724.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(7C) **APPEAL NO. 01-111**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2693.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(7D) **APPEAL NO. 01-112**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1760 Armstrong Avenue.
[Protesting issuance on April 23, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/04/23/7505
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-108**

ELIAS PAMFILIS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[544 Precita Avenue.
[Appeal of Cease and Desist Order dated [June 13, 2001, that the subject property is [being used for storage of paint, painting [supplies and related equipment in amounts [exceeding residential use, and that [inoperable vehicles and other material being [stored outside have eliminated the required [usable open space on the subject property, [in violation of Sections 171, 202, 209 and [135 of the Planning Code.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: August 2, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, AUGUST 22, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, AND Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: 1. President Chin asked Board staff to calendar a discussion of the lawsuit by the City Attorney against the Board concerning the R.A.M. Development case at 696 Pennsylvania Avenue. 2. Commissioner McInerney concurred with the comments of the President.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUEST FOR JURISDICTION:

ITEM A: 310 Corbett Avenue, #3. Letter from Graham Bell, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04/27/7889 issued to Michael Majoulet for converting an illegal apartment into storage. PUBLIC TESTIMONY HEARD JUNE 13 & 20, 2001. FOR FURTHER CONSIDERATION TODAY.

Date issued	April 27, 2001
Last day to appeal	May 14, 2001
Request for jurisdiction	May 31, 2001

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to DENY the request for jurisdiction.

SPEAKERS: 1. Steven C. Williams, attorney for the permit holder, informed the Board about the negotiations with the requestor, and asked the Board to deny jurisdiction. 2. Michael Majoulet, permit holder, also asked the Board to deny jurisdiction. Note: Graham Bell, requestor, was not present when the item was called, but did show up later when the President informed him of what action the Board had taken.

REQUEST TO SET ASIDE BOARD RULES:

ITEM B: 575 Miramar Avenue. Appeal 01-066. Request from Patricia McColm, Appellant, dated July 22, 2001, that the Board set aside its rules and allow for consideration of a second request for rehearing. On May 23, 2001,

upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit. On July 11, 2001, upon motion by Commissioner McInerney, the Board voted 5-0 to DENY the request for rehearing. Permit Holder: Marc Balistreri.

ACTION: Upon motion by President Chin, the Board voted 5-0 to DENY the request to set aside the rules.

SPEAKERS: 1. Patricia McColm, requestor/appellant, outlined her reasons for her request. 2. Marc Balistreri, permit holder, asked the Board to deny the request.

REQUEST FOR REHEARING:

ITEM C: 1592-1594 Golden Gate Avenue. Letter from Alice R. Lane, conservator for Elizabeth Jamerson, appellant, requesting rehearing of Appeal No. 00-181 heard on February 28, 2001. Upon motion by Commissioner McInerney, the Board voted 2-2 (President Chin and Commissioner El Qadah dissented, Vice President Saunders absent) to **UPHOLD** the Zoning Administrator's determination that there was sufficient evidence to constitute clear intent on the part of the owner to abandon the Limited Commercial Use for the subject property. Four votes are needed to overrule and the determination was **UPHELD**.

ACTION: Upon motion by Commissioner McInerney, the Board 2-3 (President Chin, Vice President Saunders & Commissioner El Qadah dissented) to deny the request for rehearing. Four votes being necessary to grant a rehearing, the motion PASSED and the request for rehearing was DENIED.

SPEAKERS: 1. William Balin, attorney for the requestor/appellant, stated the reasons as to why he believed a rehearing was appropriate in this matter. 2. Larry Badiner, ZA, asked the Board to deny the request for rehearing.

REQUEST FOR JURISDICTION:

ITEM D: 1370 Sloat Boulevard. Letter from Joe Muhawieh, requesting that the Board take jurisdiction over Building Permit Application No. 2001/03/14/4273S. Permit Holder: Igor Stein.

Date Permit Issued:	July 23, 2001
Last Day to Appeal:	August 7, 2001
Date Jurisdiction Request Received:	August 8, 2001

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to DENY the request for jurisdiction.

SPEAKERS: 1. Joe Muhawieh, requestor, asked the Board to take jurisdiction over the subject permit based on his miscalculation of the start date for the appeal period. 2. Igor Stein, permit holder, asked the Board to deny the request for jurisdiction.

Items (4A) Through (4D) Were Heard Together

(4A) **APPEAL NO. 01-109**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2712.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

MEETING MINUTES, BOARD OF APPEALS, AUGUST 22, 2001

(4B) **APPEAL NO. 01-110**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2724.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(4C) **APPEAL NO. 01-111**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2693.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(4D) **APPEAL NO. 01-112**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1760 Armstrong Avenue.
[Protesting issuance on April 23, 2001, [to
Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/04/23/7505
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to CONTINUE the matter to September 12, 2001, with a report from the Fire Dept. concerning the life/safety issues at the subject properties.

SPEAKERS: 1. Gary Massetani, Fire Marshal, Fire Dept., answered questions from Board members. 2. Thomas Harvey, Captain, Fire Dept., also answered questions from Board members concerning the Notice of Violation that he issued for the subject property. 3. Stephen Collier, attorney for the appellants, outlined the reasons for the appeal. 4. Karen Hull, attorney for the appellants, also elaborated on the reasons for the appeal. 5. Kevin Greenquist, attorney for the permit holder, commented on the statements made by the appellants' attorneys. 6. Laurence Kornfield, CBI, DBI, answered questions from Board members. PUBLIC COMMENT FOR THE APPELLANTS: Joe O'Donoghue. PUBLIC COMMENT FOR THE PERMIT HOLDER: None.

(5) **APPEAL NO. 00-161**

ROBERT T. HOLLAND, dba "EDWARD II BED AND BREAKFAST", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[3155 Scott Street.
[Order to Cease Violation of the Planning
[Code dated September 11, 2000 for
[billboard exceeding 24 feet in height
[constructed without proper permits on the
[west-facing wall of the building.
[PUBLIC HEARING CLOSED DEC. 6, 2000.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to RESCHEDULE the matter to October 24, 2001.

SPEAKERS: 1. Patricia Vaughey announced the completion of her study of illegal signs on Lombard street. 2. Frederic Campagnoli, attorney for appellant, commented on Ms. Vaughey's remarks. 3. Larry Badiner, ZA, thanked Ms. Vaughey for her work on the study, and said he and his staff would analyze it closely.

(6) **APPEAL NO. 01-099**

MARY H. BUTLER, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[730 Olmstead Street.
[Protesting issuance on June 1, 2001, to [Annie Lee, Permit to Alter a Building [(legalize roof deck, and construct two-story rear [horizontal addition above roof deck).
[APPLICATION NO. 2000/10/17/3177S.
[PUBLIC HEARING HELD & CLOSED JULY [18, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to UPHOLD the subject permit per the revised plans submitted at hearing, and with the following CONDITIONS: that any damage to the appellant's property/plants shall be paid by the permit holder, and any concrete blocks left...based on whatever formulation the permit holder decides to proceed with, that is, reinforcement or removal of entire fence, which is still subject to DBI review and inspection, shall be "stuccoed."

SPEAKERS: 1. Jerry Klein, agent for the permit holder, addressed the issue of the revised plans. 2. Laurence Kornfield, CBI, DBI, answered questions from the Board. 3. Abraham Zavala, agent for the appellant, also addressed the issue of the revised plans. PUBLIC COMMENT FOR THE APPELLANT: Mati Bates.

Items (7A) and (7B) Were Heard Together:

(7A) **APPEAL NO. 01-113**

R.B. HOWARD HAWTHORNE, Appellant
vs.
PLANNING COMMISION, Respondent

[35 Hawthorne Street.
[Protesting the adoption on June 14, 2001 of [Motion No. 16174 (approval under the 2000-[2001 Annual Office Development Limitation [Program for a proposed project that would [construct 40,350 gross square feet of new [office space pursuant to Planning Code [Sections 321 & 322 in the C-3-O (SD) [(Downtown Office, Special Development) [district and within a 150-S height and bulk [district).
[MOTION NO. 16174.
[PROJECT SPONSOR: Hawthorne Howard, [LLC.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-114**

R.B. HOWARD HAWTHORNE, Appellant
vs.
PLANNING COMMISION, Respondent

[35 Hawthorne Street.
[Protesting the adoption on June 14, 2001 of [Motion No. 16175 (approval and granting of [exceptions to the Planning Code pursuant to [Section 309 of said Code for an office [structure with ground floor retail and one [dwelling unit in the C-3-O (SD) (Downtown [Office, Special Development) district and [within a 150-S height and bulk district).
[MOTION NO. 16175.
[PROJECT SPONSOR: Hawthorne Howard, [LLC.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to RECUSE Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney recused) to UPHOLD both of the Planning Commission motions/authorizations with the following CONDITIONS: that the color scheme remain as approved by the Planning Commission, and that the appellant be provided with any plans that are submitted to the City 10 days prior to submittal.

SPEAKERS: 1. David Blackwell, attorney for the appellant, outlined the reasons for the appeal. 2. Andrew Junius, attorney for the project sponsor, urged the Board to deny the appeal. 3. Larry Badiner, ZA, answered questions from the Board.

(8) **APPEAL NO. 01-116**

ZHENG HAI PING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1835 – 47th Avenue.
[Protesting issuance on June 28, 2001, to
[Val Khomchenko, Permit to Alter a Building
[(legalize bathroom, remove illegal kitchen in
[illegal unit and replace it with storage space)
[APPLICATION NO. 2001/06/28/2618)
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to CONTINUE the matter to September 19, 2001, with the tenant to be given 24 hours notice for the permit holder's contractor to go into the subject illegal unit to investigate the utility issue, and for the Dept. of Building Inspection to investigate the life/safety issues at the subject illegal unit with a report on said issues on August 29, 2001.

SPEAKERS: 1. Zheng Hai Ping, appellant, outlined the reasons for his appeal. 2. Jonathan Bornstein, attorney for permit holders, urged the Board to deny the appeal. Val Khomchenko, permit holder, also asked the Board to deny the appeal. PUBLIC COMMENT FOR THE APPELLANT: Ping Zhang.

(9) **APPEAL NO. 01-118**

JOHN LOUGHRAN & DAVID DWORMAN, Appellants
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1021 Francisco Street
[Protesting issuance on June 27, 2001, to
[Lisa Giannone, Permit to Alter a Building
[(renovate second floor, add third story, and
[add furnace and water heater to ground
[level).
[APPLICATION NO. 9915973.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: 1. John Loughran & David Dworman , co-appellants, outlined the reasons for their appeal. 2. Jack Scott & Alex Linsman, agents for the permit holder, asked the Board to deny the appeal. PUBLIC COMMENT FOR THE APPELLANTS: Howard Maibach and Jeanine Loughran. PUBLIC COMMENT FOR THE PERMIT HOLDER: Joe O'Donoghue.

MEETING MINUTES, BOARD OF APPEALS, AUGUST 22, 2001

Items (10A) Through (10D) Were Heard Together

(10A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(10B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(10C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(10D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits.

SPEAKERS: 1. Robert McCarthy, attorney for appellants Cooper & Kirkham, outlined the reasons for the appeals. 2. Tracy Kirkham, co-appellant, urged the Board to revoke the permits. 3. Alan Kuhn, co-appellant, also asked the Board to revoke both permits. 4. Timothy Moppin, attorney for appellant Kuhn, reiterated his client's request that the permits be revoked. 5. Steve Atkinson, attorney for the permit holders, urged the board to deny the appeals. 6. Nan Roth, co-permit holder, asked the Board to uphold her permits. 7. Larry Badiner, ZA, answered questions from the Board.

There being no further business, President Chin adjourned the meeting at 10:50 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

BOARD OF APPEALS

08-17-01P00945-ARNV

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, AUGUST 22, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

/01

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUEST FOR JURISDICTION:

ITEM A: 310 Corbett Avenue, #3. Letter from Graham Bell, requesting that the Board take jurisdiction over Building Permit Application No. 2001/04/27/7889 issued to Michael Majouiet for converting an illegal apartment into storage. PUBLIC TESTIMONY HEARD JUNE 13 & 20, 2001. FOR FURTHER CONSIDERATION TODAY.

Date issued	April 27, 2001
Last day to appeal	May 14, 2001
Request for jurisdiction	May 31, 2001

REQUEST TO SET ASIDE BOARD RULES:

ITEM B: 575 Miramar Avenue. Appeal 01-066. Request from Patricia McColm, Appellant, dated July 22, 2001, that the Board set aside its rules and allow for consideration of a second request for rehearing. On May 23, 2001, upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit. On July 11, 2001, upon motion by Commissioner McInerney, the Board voted 5-0 to DENY the request for rehearing. Permit Holder: Marc Balistreri.

REQUEST FOR REHEARING:

ITEM C: 1592-1594 Golden Gate Avenue. Letter from Alice R. Lane, conservator for Elizabeth Jamerson, appellant, requesting rehearing of Appeal No. 00-181 heard on February 28, 2001. Upon motion by Commissioner McInerney, the Board voted 2-2 (President Chin and Commissioner El Qadah dissented, Vice President Saunders absent) to **UPHOLD** the Zoning Administrator's determination that there was sufficient evidence to constitute clear intent on the part of the owner to abandon the Limited Commercial Use for the subject property. Four votes are needed to overrule and the determination was **UPHELD**.

REQUEST FOR JURISDICTION:

ITEM D: 1370 Sloat Boulevard. Letter from Joe Muhawieh, requesting that the Board take jurisdiction over Building Permit Application No. 2001/03/14/4273S. Permit Holder: Igor Stein.

Date Permit Issued:	July 23, 2001
Last Day to Appeal:	August 7, 2001
Date Jurisdiction Request Received:	August 8, 2001

Items (4A) Through (4D) Shall Be Heard Together

(4A) **APPEAL NO. 01-109**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2712.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 01-110**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2724.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(4C) **APPEAL NO. 01-111**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2693.
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(4D) **APPEAL NO. 01-112**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1760 Armstrong Avenue.
[Protesting issuance on April 23, 2001, [to
Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/04/23/7505
[JURISDICTION TAKEN JUNE 13, 2001.
[FOR HEARING TODAY.

(5) **APPEAL NO. 00-161**

ROBERT T. HOLLAND, dba "EDWARD II BED AND BREAKFAST", Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[3155 Scott Street.
[Order to Cease Violation of the Planning
[Code dated September 11, 2000 for
[billboard exceeding 24 feet in height
[constructed without proper permits on the
[west-facing wall of the building.
[PUBLIC HEARING CLOSED DEC. 6, 2000.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-099**

MARY H. BUTLER, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[730 Olmstead Street.
[Protesting issuance on June 1, 2001, to [Annie Lee, Permit to Alter a Building [(legalize roof deck, and construct two-story rear [horizontal addition above roof deck).
[APPLICATION NO. 2000/10/17/3177S.
[PUBLIC HEARING HELD & CLOSED JULY [18, 2001.
[FOR FURTHER CONSIDERATION TODAY.

Items (7A) and (7B) Shall Be Heard Together:

(7A) **APPEAL NO. 01-113**

R.B. HOWARD HAWTHORNE, Appellant
vs.
PLANNING COMMISION, Respondent

[35 Hawthorne Street.
[Protesting the adoption on June 14, 2001 of [Motion No. 16174 (approval under the 2000-[2001 Annual Office Development Limitation [Program for a proposed project that would [construct 40,350 gross square feet of new [office space pursuant to Planning Code [Sections 321 & 322 in the C-3-O (SD) [(Downtown Office, Special Development) [district and within a 150-S height and bulk [district).
[MOTION NO. 16174.
[PROJECT SPONSOR: Hawthorne Howard, [LLC.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-114**

R.B. HOWARD HAWTHORNE, Appellant
vs.
PLANNING COMMISION, Respondent

[35 Hawthorne Street.
[Protesting the adoption on June 14, 2001 of [Motion No. 16175 (approval and granting of [exceptions to the Planning Code pursuant to [Section 309 of said Code for an office [structure with ground floor retail and one [dwelling unit in the C-3-O (SD) (Downtown [Office, Special Development) district and [within a 150-S height and bulk district).
[MOTION NO. 16175.
[PROJECT SPONSOR: Hawthorne Howard, [LLC.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-116**

ZHENG HAI PING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1835 – 47th Avenue.
[Protesting issuance on June 28, 2001, to [Val Khomchenko, Permit to Alter a Building [(legalize bathroom, remove illegal kitchen in [illegal unit and replace it with storage space)
[APPLICATION NO. 2001/06/28/2618)
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-118**

JOHN LOUGHRAN & DAVID DWORMAN, Appellants
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1021 Francisco Street
[Protesting issuance on June 27, 2001, to
[Lisa Giannone, Permit to Alter a Building
[(renovate second floor, add third story, and
[add furnace and water heater to ground
[level).
[APPLICATION NO. 9915973.
[FOR HEARING TODAY.

Items (10A) Through (10D) Shall Be Heard Together

(10A) **APPEAL NO. 00-258**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(10B) **APPEAL NO. 00-259**

JOSEF COOPER & TRACY KIRKHAM, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

(10C) **APPEAL NO. 00-260**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Demolish
[a Building (garage).
[APPLICATION NO. 2000/09/06/9726.
[FOR HEARING TODAY.

(10D) **APPEAL NO. 00-261**

ALAN KUHN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1432-34 Kearny Street.
[Protesting issuance on December 12, 2000,
[to Nathan and Nan Roth, Permit to Erect a
[Building (three-story two-family dwelling).
[APPLICATION NO. 2000/09/06/9760.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: August 16, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to disc meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings a reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For m information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, web www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

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1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, AUGUST 29, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

ABSENT: Commissioner Allam El Qadah.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKERS: None.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

REQUEST FOR REHEARING:

ITEM A: 320 Wawona Street. Letter from Marilyn Amini, Appellant, requesting rehearing of Appeal No. 01-092, heard July 18, 2001. Upon motion by Vice President Saunders, the Board voted 5-0 to **UPHOLD** the subject permit. Permit Holders: Bethany Chaney & Bridget Wylie.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner El Qadah absent) to DENY the request for rehearing.

SPEAKERS: 1. Marilyn Amini, requestor, asked the Board to grant her a rehearing because of the complications of the matter and continue the request until there is a five-member Board sitting. 2. Bridget Wylie, a co-permit holder, asked the Board to deny the request of the appellant because of the many delays already and their need to complete their project. She said no new evidence is being presented that would justify a second hearing. 3. Larry Badiner, Zoning Administrator, said there was no record of an illegal unit in the permit holders' house and the argument concerning it is irrelevant. Laurence Kornfeld, CBI, DBI, said that there are no Building Code violations on the subject property.

MEETING MINUTES, BOARD OF APPEALS, AUGUST 29, 2001

SPECIAL REPORTS:

ITEM B: 544 Precita Avenue. Appeal No. 01-108, Pamfilis vs. Zoning Administrator. Progress report by the Zoning Administrator or his representative on compliance issues at the subject property.

SPEAKER: Larry Badiner, ZA, asked that the matter be rescheduled another 45 days out.

ITEM C: 1835 – 47th Avenue. Appeal No. 01-116, Zheng Hai Ping vs. Dept. of Building Inspection. Report from the Department of Building Inspection concerning the life/safety issues in the illegal unit at the subject property.

SPEAKERS: 1. Larry Badiner, ZA, reported on the property at 1835 47th Avenue (Appeal No. 01-116) having driven by the property. He said that the owner is moving ahead toward compliance with the Planning Code and that the property looked clean and orderly though there were trucks there. He asked that the Board continue the appeal forty-five days to allow time for complete compliance. 2. Laurence Komfeld, CBC, DBI, described what he observed on the site visit including the appliances properly wired and in working order with no life safety issues apparent.

(4) **APPEAL NO. 01-121**

GEORGE & AMY LUO, Appellants
vs.
DEPT. OF PUBLIC WORKS, Respondent

[2390- 39th Avenue.
[Appealing denial on June 28, 2001, of
[permit to remove and replace three trees.
[ORDER NO. 173, 034.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner El Qadah absent) to OVERRULE the denial and GRANT the subject permit on CONDITION that the replacement trees be listed on the "Street Tree Planting Guide" which is issued by the Urban Forestry Division of the Department of Public Works.

SPEAKER: 1. Fred Martinez, representing the appellants, explained that the trees are causing damage to the sidewalk and curb and that the appellants want to replace them with Italian Cypress or other more suitable type tree. NO PUBLIC COMMENT FOR EITHER SIDE & NO APPERANCE BY THE DEPARTMENT OF PUBLIC WORKS.

(5) **APPEAL NO. 01-119**

JAMES HERBERT, II, , Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[2505 Green Street.
[Protesting issuance on June 28, 2001, to
[Jim & Holly Farrell, Permit to Alter a Building
[(provide jomy ladder as voluntary second
[means of egress).
[APPLICATION NO. 2001/05/31/0341.
[FOR HEARING TODAY.

ACTION: This matter was WITHDRAWN by the appellant prior to hearing.

(6) **APPEAL NO. 01-120**

SOPHIA PAPAGEORGIOU, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1431 Santiago Street.
[Protesting issuance on June 29, 2001, to
[Paul Finwall, Permit to Alter a Building
[(enlarge and rebuild existing garden room).
[APPLICATION NO. 2001/06/29/2712.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner El Qadah absent) to GRANT with CONDITIONS as agreed to by the principals.

SPEAKERS: 1. Sophia Papageorgiou, appellant, outlined the reasons for her appeal and what she considereda possible compromise. 2. Paul Finwall, permit holder, commented on the proposed compromise by the appellant. 3. Laurence Kornfield, CBI, DBI, answered questions from the Board.

(7) **APPEAL NO. 01-123**

LINDA LEW, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

Section 14 Principal(s): HO TRUST & ALIOTO FAMILY TRUST

[835 Lombard Street.
[Appealing denial on July 10, 2001, of Permit [to Alter a Building (construct one additional [room on fourth floor with bath; remove gable [roof at rear of building to create a flat roof [with deck)
[APPLICATION NO. 2000/07/13/5089S.
[FOR HEARING TODAY.

ACTION: This matter was RESCHEDULED to November 14, 2001 prior to the meeting.

Items (8A) & (8B) Were Heard Together:

(8A) **APPEAL NO. 01-124**

FERDINAND M. RULLAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[154 – 28th Street.
[Protesting issuance on July 10, 2001, to Mel [Murphy, Permit to Demolish a Building (two- [story, two-unit building, 24' in height).
[APPLICATION NO. 2000/11/15/5844.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-125**

FERDINAND M. RULLAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[154 – 28th Street.
[Protesting issuance on July 10, 2001, to Mel [Murphy, Permit to Erect a Building (four- [story, two-unit building, 40' in height).
[APPLICATION NO. 2000/11/15/5852S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner El Qadah absent) to GRANT the demolition permit, and GRANT the site permit with CONDITIONS as stated on the record, and with ADOPTION of revised sketches submitted by the permit holder's attorney.

SPEAKERS: 1 Ferdinand M. Rullan, appellant, requested a continuance until a five member board would be present and to allow him time to prepare his case. He said he didn't oppose the project. 2. Alice Barkley, attorney for permit holder Mel Murphy, objected to a continuance but agree to let agreed to let the item pass while she and the appellant sought an agreement in the corridor. When the Board returned to the item, Ms. Berkley described the agreement reached by the parties and Mr. Rullan acknowledged his agreement to the conditions described by Ms. Barkley. NO PUBLIC COMMENT FOR EITHER SIDE.

There being no further business, President Chin adjourned the meeting at 6:51 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

Terry Gwiazdowsky
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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, SEPTEMBER 12, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

JURISDICTION REQUESTS:

ITEM A: 751-755 Arguello Boulevard. Letter from Drexel Bradshaw, attorney for Jennifer Smith & Nicole Benton, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/22/2409. Permit Holder: A. Desta.

Date Permit Issued:	January 31, 2001
Last Day to Appeal:	February 15, 2001
Date Jurisdiction Request Received:	August 15, 2001

ITEM B: 2138 – 16th Avenue. Letter from Quincy Yu requesting that the Board take jurisdiction over Order No. 172,915 by the Department of Public Works, denying a permit to remove and replace one tree.

Date of Order:	May 19, 2001
Last Day to Appeal:	June 4, 2001
Date Jurisdiction Request Received:	August 24, 2001

(4) **APPEAL NO. 01-093**

FLOYD K. FOSTER & CAROLYN DICKINSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[585 Laidley Street.
[Protesting issuance on May 9, 2001, to [Sandra and Manny Alvarenga, Permit to [Alter a Building (add one story of occupancy [to existing two-story dwelling; enlarge [existing bedroom on second floor; remodel [existing kitchen; remove existing posts in [garage and widen door to 12 feet; and [seismic upgrade).
[APPLICATION NO. 9923677S.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-104**

JOHN O'MALLEY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1280 Hampshire Street.
[Appeal of Notice of Violation dated June 7, [2001, that the subject property, located in a [Residential House district (RH-3), is being [used for a non-residential industrial purpose [(painting contractor's establishment), in [violation of Planning Code Sections 209 [through 209.9.
[PARTIAL PUBLIC TESTIMONY HEARD [AUGUST 1, 2001.
[REPORT FROM DBI ON LIFE/SAFETY [ISSUES CONSIDERED AUGUST 8, 2001.
[FOR FURTHER CONSIDERATION TODAY.

Items (6A) Through (6D) Shall Be Heard Together

(6A) **APPEAL NO. 01-109**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2712.
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22, [2001.
[FOR FURTHER CONSIDERATION TODAY.

(6B) **APPEAL NO. 01-110**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2724.
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22, [2001.
[FOR FURTHER CONSIDERATION TODAY.

(6C) **APPEAL NO. 01-111**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2693.
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22, [2001.
[FOR FURTHER CONSIDERATION TODAY.

(6D) **APPEAL NO. 01-112**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1760 Armstrong Avenue.
[Protesting issuance on April 23, 2001, [to Les Silverman, Permit to Alter a Building [(remove all bedrooms without permits).
[APPLICATION NO. 2001/04/23/7505
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22, [2001.
[FOR FURTHER CONSIDERATION TODAY.

(7) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(7A) **APPEAL NO. 01-122**

YONG LIANG CHEN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[200 Arleta Avenue.
[Appeal for Refund of Penalty imposed on [July 24, 2001.
[APPLICATION NO. 2000/10/27/4299.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-083**

ANNA TAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[416 -15th Avenue.
[Appeal for Refund of Penalty imposed on [May 16, 2001.
[APPLICATION NO. 2001/04/26/7752.
[FOR HEARING TODAY.

Items (8A) & (8B) Shall Be Heard Together:

(8A) **APPEAL NO. 01-126**

EDWARD H. DAVIS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[3615 – 20th Street.
[Protesting issuance on July 13, 2001, to [Nina Hatvany, Permit to Erect a Building [(four-story, six-unit building, 40' in height [with 3,128sf of ground floor area).
[APPLICATION NO. 2000/12/19/8268S.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-146**

NINA HATVANY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[3615 – 20th Street.
[Appealing a request by the Zoning [Administrator dated August 20, 2001, that [Building Permit Application No. [2000/12/19/8268 be suspended because it [was approved in error by the Planning [Department, and that said application be [referred back to the Planning Department for [review.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-077**

DANIEL KELLY & PENNY SNEED, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[255 San Marcos Avenue.
[Denial on April 30, 2001 of Permit to Alter a [Building (demolish existing garage and [relocate new garage to front of building; add [new second floor bedroom suite; remodel [kitchen, family room and half-bath at first [floor; new laundry room and remodel [bathrooms and deck at lower level).
[APPLICATION NO. 2000/08/22/8494S.
[FOR HEARING TODAY.

(10) **CLOSED SESSION**

ITEM A: Public Comment concerning the Closed Session.

ITEM B: Discussion and vote pursuant to Administrative Code Section 67.11(a) as to whether to conduct a closed session and invoke the attorney-client privilege.

ITEM C: Pursuant to Government Code Section 54956.9 and Administrative Code Section 67.8 (3), the Board of Appeals will meet in Closed Session to discuss and take action on attorney-client matters in the following case:

i. Existing Litigation: City & County of San Francisco v. Board of Appeals, Superior Ct # 323740, Appeal No. 01-042, 696 Pennsylvania Avenue.

ITEM D: Adjourn Closed Session & Reconvene Regular Meeting.

ITEM E: Announcement of Closed Session.

ITEM F: Motion to disclose or not disclose the information discussed in the Closed Session.

ADJOURNMENT.

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Date posted: September 6, 2001

MEMBERS OF THE BOARD OF APPEALS

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ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environm illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings ar reminded that other attendees may be sensitive to various chemical-based products. Please help the City t accommodate these individuals. The closest accessible BART station is the Civic Center station located at th intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points alon McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 7 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regardin MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, council and other agencies of the City and County exist to conduct the people's business. This ordinance assures tha deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrativ Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshin Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phon (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can b obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website a www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities th influence or attempt to influence local legislative or administrative action that they may be required by the San Fran Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For ... information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, websi www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, SEPTEMBER 12, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders (who arrived at 6:00 p.m.), Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS.** President Chin asked for a moment of silence for the victims of the terrorist attacks on September 11, 2001, in New York, Washington and Pennsylvania; and he asked those who testify to not be redundant or duplicative in speaking.

SPEAKER: Commissioner McInerney thanked Ms. Boyajian for the opinion regarding Proposition J and its relevance to the Board of Appeals.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

JURISDICTION REQUESTS:

ITEM A: 751-755 Arguello Boulevard. Letter from Drexel Bradshaw, attorney for Jennifer Smith & Nicole Benton, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/22/2409. Permit Holder: A. Desta.

Date Permit Issued:	January 31, 2001
Last Day to Appeal:	February 15, 2001
Date Jurisdiction Request Received:	August 15, 2001

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to CONTINUE the matter to October 3, 2001 with the Public hearing CLOSED.

SPEAKERS: 1. Jonathan Chu, attorney, spoke for the requestors Jennifer Smith and Nicole Benton, asked the Board to allow them to file a late appeal because their landlord was seeking to make an illegal unit and there wasn't adequate notice of the issuance of the permit to his clients. 2. Greg Broadbank, attorney for the permit holder asked the Board to deny the request because there was thirty-day notice given and no facts were presented to support the allegations made against his client and he said the tenants had been informed of his client's intentions

MEETING MINUTES, BOARD OF APPEALS, SEPTEMBER 12, 2001

ITEM B: 2138 – 16th Avenue. Letter from Quincy Yu requesting that the Board take jurisdiction over Order No. 172,915 by the Department of Public Works, denying a permit to remove and replace one tree.

Date of Order:	May 19, 2001
Last Day to Appeal:	June 4, 2001
Date Jurisdiction Request Received:	August 24, 2001

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney dissented) to GRANT the jurisdiction request.

SPEAKERS: 1. The requestor Quincy Yu said she couldn't file her appeal on time because she was closing down her company which took all her time. 2. Paul Sacamano, Forester for Department of. Public Works, described the sequence of events in this matter including the reissuance of the order to allow the requestor additional time to file an appeal.

(4) **APPEAL NO. 01-093**

FLOYD K. FOSTER & CAROLYN DICKINSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[585 Laidley Street.
[Protesting issuance on May 9, 2001, to [Sandra and Manny Alvarenga, Permit to [Alter a Building (add one story of occupancy [to existing two-story dwelling; enlarge [existing bedroom on second floor; remodel [existing kitchen; remove existing posts in [garage and widen door to 12 feet; and [seismic upgrade).
[APPLICATION NO. 9923677S.
[FOR HEARING TODAY.

ACTION: This matter was WITHDRAWN by the appellants.

(5) **APPEAL NO. 01-104**

JOHN O'MALLEY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1280 Hampshire Street.
[Appeal of Notice of Violation dated June 7, [2001, that the subject property, located in a [Residential House district (RH-3), is being [used for a non-residential industrial purpose [(painting contractor's establishment), in [violation of Planning Code Sections 209 [through 209.9.
[PARTIAL PUBLIC TESTIMONY HEARD [AUGUST 1, 2001.
[REPORT FROM DBI ON LIFE/SAFETY [ISSUES CONSIDERED AUGUST 8, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to OVERRULE the subject Notice of Violation.

SPEAKERS: 1. Larry Badiner, ZA, said the City records indicated this is a Non-Conforming Use and that the property has always been used for industrial or commercial purposes; and the violation here is the intensification of the NCU, which is prohibited by the Code. 2. Jeremy Paul, consultant for the appellant and the operator of the contracting firm lessee of the property, said the intensification issue is a curve ball he wasn't expecting. He described the efforts and plans his client was making to diminish the negative impact on the neighborhood of his operation including changing the day for garbage pickup, arranging for a restroom for his employees, the proper disposal of hazardous materials and improved ventilation. PUBLIC COMMENT FOR APPELLANT: 3. Kary McElroy said he hasn't seen the problems that other neighbors reported and that the contractor has given materials to the neighborhood for a clean up. 4. Mauricio Mejia said that he was not aware of any health problems caused by the

painting contractor's business and that he smelled nothing though he lived next door at 1276. PUBLIC COMMENT FOR ZONING ADMINISTRATOR: 5. Michael Sweeney described the many complaints filed by neighbors with City departments about the appellant's building and its use, including the fire hazards it causes. 6. Marina Ancheta said she lives next door and that the business causes fire and explosive dangers, as w ell as health problems because of lack of ventilation. 7. Chris Clyde said the issue seems to have shifted since the last meeting when the issue was the zoning of the property. He said that Mr. Sweeney is a HAZMAT specialist at the U. S. Mint in the City. He said that other businesses complied with the regulations and this operator should also comply. He said his research indicated the property never had an NCU permit and should be held to residential standards.

Items (6A) Through (6D) Were Heard Together

(6A) **APPEAL NO. 01-109**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2712.
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(6B) **APPEAL NO. 01-110**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2724.
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(6C) **APPEAL NO. 01-111**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1775-1777 Yosemite Avenue.
[Protesting issuance on February 24, 2001,
[to Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/02/22/2693.
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(6D) **APPEAL NO. 01-112**

THOMAS WOJAK,
BOB BELLUCCI, BRENT BUSHNELL,
MACOLM McCLAY & CHICORY MILES, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1760 Armstrong Avenue.
[Protesting issuance on April 23, 2001, [to
Les Silverman, Permit to Alter a Building
[(remove all bedrooms without permits).
[APPLICATION NO. 2001/04/23/7505
[JURISDICTION TAKEN JUNE 13, 2001.
[PUBLIC TESTIMONY HEARD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 1-4 (Vice President Saunders, Commissioners Cullum, McInerney & El Qadah dissented) to CONTINUE the matters to October 31, 2001, with the public hearing CLOSED.

Three votes being necessary to continue a case, the motion FAILED. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to REVOKE all four permits.

SPEAKERS: 1. Captain Thomas Harvey, S.F.P.D. speaking for Fire Marshal Mafetani presented the Fire Department's report on fire safety conditions in the subject building and offered to answer Commissions' questions. He said that fire requirements are triggered by change of use to residential and don't apply to existing residential buildings. The Department has no authority to impose requirements on existing buildings unless the district changes and the Live-Work uses are covered by the 1988 Code ruling. 2.Steve Collier, attorney for the appellants said he would share his time with two others, Paul Wartelle and Karen Hull. 3. Paul Wartelle said the artist-tenants hadn't hijacked the building but were told when the building was purchased by the permit holder that the artist live-work tenants could remain as in the letter of 1997 in his submittal. He said their use has been legitimized by Health and Safety Code changes and has been grandfathered in, and the Fire Department Report doesn't indicate which requirements haven't been met. 4. Karen Hull said some corridors are of concrete and others of sheetrock. She said the standards were relaxed for live-work use and the Master Plan encouraged such space for artists.
5. Clifford Fried, attorney for the owners, said his clients are trying to comply with a City order and that it would cost them two million dollars to bring the building up to Code and make it safe for residential and abate the hazards to life and property. He said the order hasn't been withdrawn by the Fire Marshal yet. He is aware that at least one child lives in the building and if hazards aren't abated many lawsuits will follow and the owners are liable for damages and injuries to residents in this industrial and commercial building. He said the tenants are living there illegally. 6. Larry Badiner, Zoning Administration, report on his research of Commission policies which replaced interim controls and discourages new live-work use and conversions to live-work use. Such use must comply with the law now, including the moratorium which prohibits any permits being issued for live-work. PUBLIC COMMENT FOR APPELLANTS: 7. Joe O'Donoghue said the City can't enforce Codes against the thousands of illegal dwellings because it would make thousands of people homeless. These users violate many Code provisions. He said the subject live-work units were classic ones for which the state and local Codes were amended to preserve artist homes and work spaces and these are real ones. 8. Barbara Sebastian said she is a former tenant in the building and subleased several spaces. She said the building is healthy and safe because people live and work there twenty-four hours a day. 9. Colleen Mackin said she is a former tenant and she has sued the owners. She said the tenants have offered to help bring the building up to Code and it wouldn't cost the owners millions to do so.
PUBLIC COMMENT FOR PERMIT HOLDER: 10. Patrick Dillmann said he was not speaking for the owners and that Paul Wortelle doesn't represent him, but he represents twenty-five artists in the basement of the building. His business in the building is very noisy. He said other tenants complain of the noise. His 24-hour business is permitted in the IPZ which allows 24-hour businesses uses which are noisy. He questioned whether the building has live-work spaces truly. He occupies 10,000 square feet. He wants residential tenants out and he supports owners' efforts to remove bedrooms and tenants who oppose his noisy use. ADDITIONAL TESTIMONY IN REBUTTAL: 11. Karen Hull, attorney for appellants, said the violations in her clients' units were minor and hove been corrected by them. There are now no fire safety violations in the units under the appellants' control. 12. Kevin Greenquist an attorney for the owners said that the liability for the safety violations are his clients and are not the appellants. 13. Charles Silverman, one of the owners with his brother and some friends, said that his contractors estimate it will cost two to three millions dollars to upgrade the building to meet the fire Department requirements for residential use and insure life safety for the tenants.

(7) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board proceeded to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code.

(7A) **APPEAL NO. 01-122**

YONG LIANG CHEN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[200 Arleta Avenue.
[Appeal for Refund of Penalty imposed on
[July 24, 2001.
[APPLICATION NO. 2000/10/27/4299.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to REDUCE the subject penalty to two times the regular fee.

SPEAKERS: Appellant was present but did not speak.

(7B) **APPEAL NO. 01-083**

ANNA TAM, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[416 -15th Avenue.
[Appeal for Refund of Penalty imposed on [May 16, 2001.
[APPLICATION NO. 2001/04/26/7752.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to REDUCE the subject penalty to two times the regular fee.

SPEAKERS: Appellant was present but did not speak.

Items (8A) & (8B) Were Heard Together:

(8A) **APPEAL NO. 01-126**

EDWARD H. DAVIS, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[3615 – 20th Street.
[Protesting issuance on July 13, 2001, to [Nina Hatvany, Permit to Erect a Building [(four-story, six-unit building, 40' in height [with 3,128sf of ground floor area).
[APPLICATION NO. 2000/12/19/8268S.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-146**

NINA HATVANY, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[3615 – 20th Street.
[Appealing a request by the Zoning [Administrator dated August 20, 2001, that [Building Permit Application No. [2000/12/19/8268 be suspended because it [was approved in error by the Planning [Department, and that said application be [referred back to the Planning Department for [review.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to RECUSE Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney recused) to UPHOLD the Zoning Administrator's request on CONDITION that the project sponsor obtain a "Certificate of Appropriateness" from the Landmarks Preservation Advisory Board, and any subsequent Conditional Use (CU) authorization from the Planning Commission if required to do so by the Zoning Administrator.

SPEAKERS: 1. Edward H. Davis, appellant said he lives across the street from the subject site and that he approved of the revised plan which he had worked on with the cooperative architects and that the revised plans will be approved by the Landmarks Board for a certificate of appropriateness. He said he would withdraw his appeal if conditions were improved. 2. Jeremy Paul for the permit holder said that the revised plans were done in consultation with John Barley of the Liberty Hill Association and he asked the Board to uphold the issued permit and that Mr. Davis would withdraw his appeal if the agreed upon conditions are imposed by the Board. 3. Larry Badiner, ZA, explained the sequence of events and said his staff had failed to require a certificate of appropriateness before approving the permit application required by the Code for projects in historical districts. He said the certificate of appropriateness must be approved by both the Landmarks Board and the Planning Commission. He said since its approval the permit is now subject to new controls for residential projects and that it now is required to have conditional use authorization from the Planning Commission also before it is issued. He asked the Board to uphold his suspension of the permit. PUBLIC COMMENT FOR THE APPELLANTS: 4. John Barbey, president of the Liberty Hill Association, said his group approved of the revised plans and that the revisions

made to the plan satisfies them and that they appreciated the cooperation of the architects in working out the revisions. PUBLIC COMMENT FOR ZONING ADMINISTRATOR: 5. Stephen Garibaldi said he had submitted two letters to the board and that he is concerned with the parking problems presented by the project as well as the commercial use of the property. ADDITIONAL TESTIMONY: 6. Judith Boyagian, Deputy City Attorney, said all permits must meet the Codes in effect at the time of issuance and that the Mission District controls on new housing is now in effect and must be complied with so that this permit meets conditional use authorization now before the Board can approve it. She said she agrees with the proposed motion to accept the withdrawal and approves the permit on condition it receives a certificate of appropriateness and conditional use authorization if required by the Zoning Administrator.

(9) **APPEAL NO. 01-077**

DANIEL KELLY & PENNY SNEED, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[255 San Marcos Avenue.
[Denial on April 30, 2001 of Permit to Alter a [Building (demolish existing garage and [relocate new garage to front of building; add [new second floor bedroom suite; remodel [kitchen, family room and half-bath at first [floor; new laundry room and remodel [bathrooms and deck at lower level).
[APPLICATION NO. 2000/08/22/8494S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Bard voted 5-0 to OVERRULE the denial, and GRANT the subject alteration permit with ADOPTION of Section 311 & Prop M Findings, and ADOPTION of additional findings as prepared by the appellants' attorney.

SPEAKERS: Larry Badiner, Zoning Administrator, explained the DR decision of the Planning Commission which disapproved this request to move a garage on a wide lot with a major remodeling of the existing house. He explained the Commission 1976 architectural survey and its significance in this case. 2. John Sanger, attorney for the appellants, said there was no evidence to support the Commission's denial of the permit, in spite of the Planning staff recommendation for approval. He showed photos of several buildings in the area much larger than the proposed project. He urged to Board to override the denial since the project meets all Code provisions and fits well in the Forest Hill neighborhood. PUBLIC COMMENT FOR ZONING ADMINISTRATOR: 3. Harold Wright of the Forest Hill Association (FHA) said he opposed the project because it was an attempt to create two lots for sale later and he wants to keep the house as it is as a part of residential character of the neighborhood. 4. Bruce Krell, said this is not a facelift but an attempt to shoe horn in two houses. 5. Randolph R. Scott said he opposed the realignment of the property and urged the Board to uphold the denial. 6. Tom Grasshoff of 121 San Marcos said he opposes a new house at the end of the street because the traffic generated would overwhelm the narrow roadway. PUBLIC COMMENT FOR APELLANTS; 7. William Wara said this was a mistake in judgement by the FHA and there was no notice of their meetings at which the project was discussed. He said the house is in complete disrepair and the proposal would restore it and would be a benefit to the neighborhood. Francis X. Morse said he feels the project is attractive and it will improve the area. He said they might have demolished the existing house but instead they have chosen to. 8. Susan Morse said she supports the appellants' plan to remodel and read others' two statements in support. 9. Joe O'Donoghue, RBA, said the case is a travesty and the appellants said be allowed to improve their property. They have been victimized and crucified by the FHA.

(10) **CLOSED SESSION**

ITEM A: Public Comment concerning the Closed Session.

SPEAKERS: None.

ITEM B: Discussion and vote pursuant to Administrative Code Section 67.11(a) as to whether to conduct a closed session and invoke the attorney-client privilege.

ACTION: Upon motion by President Chin, the Board voted 5-0 to ENTER into closed session.

ITEM C: Pursuant to Government Code Section 54956.9 and Administrative Code Section 67.8 (3), the Board of Appeals will meet in Closed Session to discuss and take action on attorney-client matters in the following case:

i. Existing Litigation: City & County of San Francisco v. Board of Appeals, Superior Ct # 323740, Appeal No. 01-042, 696 Pennsylvania Avenue.

ITEM D: Adjourn Closed Session & Reconvene Regular Meeting.

ITEM E: Announcement of Closed Session.

ITEM F: Motion to disclose or not disclose the information discussed in the Closed Session.

ACTION: Upon motion by President Chin, the Board voted 5-0 to NOT disclose the contents of the discussion during the closed session, and to calendar consideration of a settlement for October 3, 2001.

There being no further business, President Chin adjourned the meeting at 9:36 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, SEPTEMBER 19, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 100-122 – 15th Street. Letter from Walter Wong, agent for the appellant/property owner, Larry Wasserman, requesting a rehearing of Appeal No. 01-079, heard June 13, 2001. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin and Commissioner El Qadah dissented) to UPHOLD the subject determination regarding transfer of business service determination from 200 Kansas Street to 100-122 – 15th Street.

ITEM B: 1021 Francisco Street. Letter from John Loughran, co-appellant, requesting rehearing of Appeal No. 01-118, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit issued to Lisa Giannone.

ITEM C: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits.

(4) **APPEAL NO. 01-145**

MARIO BENASSINI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[740 Vermont Street.
[Protesting issuance on August 10, 2001, to
[Joyce Book, Permit to Alter a Building
[(remodel first two stories, adding third story,
[demolish existing garage on West side and
[replace with new one-car garage).
[APPLICATION NO. 2000/10/05/2384S.
[FOR HEARING TODAY.

(5) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[699 Paris Street.
[Denial on March 20, 2001, of Minimum Lot
[Size, Rear Yard, and Front Yard Variance
[sought to subdivide a previously subdivided
[3,150 s.f. corner parcel into two lots with the
[new proposed vacant lot equaling
[approximately 1,260 s.f., and construct a
[new three story, single family dwelling on
[the proposed subdivided vacant lot.
[VARIANCE CASE NO. 2000.870V
[PUBLIC TESTIMONY HEARD JUNE 20, 2001 & AUGUST 8, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-116**

ZHENG HAI PING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1835 – 47th Avenue.
[Protesting issuance on June 28, 2001, to
[Val Khomchenko, Permit to Alter a Building
[(legalize bathroom, remove illegal kitchen in
[illegal unit and replace it with storage space)
[APPLICATION NO. 2001/06/28/2618)
[PUBLIC HEARING HELD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-130**

TUDOR HILL TENANTS ASSOCIATION, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1111-1113 Green Street.
[Protesting determination by the Zoning
[Administrator, dated July 24, 2001,
[addressed to George Hoffberg, subject
[property at 1111-1113 Green Street, that the
[proposal under Building Permit Application
[No. 2001/03/13/4165 to convert one
["uninhabitable" room, at the lowest floor of
[the building, to a new bedroom connected to
[the unit above by an interior stairway, and to
[replace two existing interior storage room
[doors with full height doors, is permitted at
[the subject property.
[FOR HEARING TODAY.

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[1196 Hampshire Street.
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[William Sorenson & James Cline, Permit to
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[under Building Permit Application Nos.
[9912409 and 2000/08/17/8163, correct
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Date posted: September 13, 2001

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ALLAM M. EL QADAH	COMMISSIONER
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EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

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Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, SEPTEMBER 19, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Commissioner Allam El Qadah, and Commissioner John McInerney.

Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

ABSENT: Vice President Sabrina Saunders, Commissioner Carole Cullum, and Deputy City Attorney Judith Boyajian.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.** President Chin announced that two Commissioners could not attend and since at least four Commissioners are necessary to decide requests for rehearing and to overrule a department action that the meeting could not go forward except to reschedule the items on the schedule to future dates when four or five Commissions will be present. He also announced that two Commissioners were unavailable October 31 and he asked staff to reschedule that entire calendar to November 7.

SPEAKER: There was no public comment on any of the following items. When each item was called the principals came forward to the lectern and the Board decided to which date the items would be rescheduled after brief discussion with the parties as to acceptable hearing dates.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 100-122 – 15th Street. Letter from Walter Wong, agent for the appellant/property owner, Larry Wasserman, requesting a rehearing of Appeal No. 01-079, heard June 13, 2001. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin and Commissioner El Qadah dissented) to UPHOLD the subject determination regarding transfer of business service determination from 200 Kansas Street to 100-122 – 15th Street.

ACTION: This matter was RESCHEDULED to October 24, 2001 prior to hearing.

ITEM B: 1021 Francisco Street. Letter from John Loughran, co-appellant, requesting rehearing of Appeal No. 01-118, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit issued to Lisa Giannone.

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Vice President Saunders and Commissioner Cullum absent) to RESCHEDULE the matter to October 10, 2001.

SPEAKERS: 1. John Loughran, requestor/co-appellant, asked that the matter go to October 10, 2001. 2. Jack Scott, agent for permit holder, asked for October 3, 2001.

ITEM C: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits.

ACTION: This matter was RESCHEDUED to November 14, 2001 prior to hearing.

(4) **APPEAL NO. 01-145**

MARIO BENASSINI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[740 Vermont Street.
[Protesting issuance on August 10, 2001, to
[Joyce Book, Permit to Alter a Building
[(remodel first two stories, adding third story,
[demolish existing garage on West side and
[replace with new one-car garage).
[APPLICATION NO. 2000/10/05/2384S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-0-2 (Vice President Saunders and Commissioner Cullum absent) to RESCHEDULE the matter to October 3, 2001.

SPEAKERS: Roger Kubein, attorney for appellant, asked for October 24, 2001. 2. Joyce Book, permit holder, said she was unavailable October 24, 2001, and asked for October 3, 2001.

(5) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[699 Paris Street.
[Denial on March 20, 2001, of Minimum Lot
[Size, Rear Yard, and Front Yard Variance
[sought to subdivide a previously subdivided
[3,150 s.f. corner parcel into two lots with the
[new proposed vacant lot equaling
[approximately 1,260 s.f., and construct a
[new three story, single family dwelling on
[the proposed subdivided vacant lot.
[VARIANCE CASE NO. 2000.870V
[PUBLIC TESTIMONY HEARD JUNE 20, 2001 & AUGUST 8, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-0-2 (Vice President Saunders and Commissioner Cullum absent) to RESCHEDULE the matter to October 3, 2001.

SPEAKERS: 1. Morgan Benedicto, appellant, asked for October 3, 2001. 2. Larry Badiner, ZA, agreed to October 3, 2001. 3. Steven Currier, from the neighborhood association, also agreed to October 3, 2001.

(6) **APPEAL NO. 01-116**

ZHENG HAI PING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1835 – 47th Avenue.
[Protesting issuance on June 28, 2001, to
[Val Khomchenko, Permit to Alter a Building
[(legalize bathroom, remove illegal kitchen in
[illegal unit and replace it with storage space)
[APPLICATION NO. 2001/06/28/2618)
[PUBLIC HEARING HELD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Vice President Saunders and Commissioner Cullum absent) to RESCHEDULE the matter to October 10, 2001.

SPEAKERS: 1. Zheng Hai Ping, appellant, asked for October 24, 2001, and said he is available October 3rd and 10th also. 2. Daniel Bornstein, attorney for permit holder, asked for October 3, 2001.

(7) **APPEAL NO. 01-130**

TUDOR HILL TENANTS ASSOCIATION, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1111-1113 Green Street.
[Protesting determination by the Zoning [Administrator, dated July 24, 2001, [addressed to George Hoffberg, subject [property at 1111-1113 Green Street, that the [proposal under Building Permit Application [No. 2001/03/13/4165 to convert one ["uninhabitable" room, at the lowest floor of [the building, to a new bedroom connected to [the unit above by an interior stairway, and to [replace two existing interior storage room [doors with full height doors, is permitted at [the subject property.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 3-0-2 (Vice President Saunders and Commissioner Cullum absent) to RESCHEDULE the matter to October 24, 2001.

SPEAKERS: 1. Paul Carlstrom, agent for appellant, asked for October 24, 2001. 2. George Hoffberg, permit holder, asked for October 3, 2001. 3. Larry Badiner, ZA, asked for October 24, 2001.

(8) **APPEAL NO. 01-134**

FRANK S. DUARTE, JR., Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1196 Hampshire Street.
[Protesting issuance on August 13, 2001, to [William Sorenson & James Cline, Permit to [Alter A Building (complete work started [under Building Permit Application Nos. [9912409 and 2000/08/17/8163, correct [estimated cost and comply with Notice of [Violation).
[APPLICATION NO. 2001/08/13/5945.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-0-2 (Vice President Saunders and Commissioner Cullum absent) to RESCHEDULE the matter to October 3, 2001.

SPEAKERS: 1. Frank Duarte, appellant, said any date was acceptable to him. 2. James Cline, co-permit holder, asked for October 3, 2001.

There being no further business, President Chin adjourned the meeting at 5:55 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, OCTOBER 3, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 2390- 39th Avenue. Letter from Paul Sacamano, Urban Forester, Dept. of Public Works, requesting rehearing of Appeal No. 01-121, Luo vs. DPW, heard August 29, 2001. Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner El Qadah absent) to OVERRULE the denial and GRANT the subject permit on CONDITION that the replacement trees be listed on the "Street Tree Planting Guide" which is issued by the Urban Forestry Division of the Department of Public Works.

ITEM B: 751-755 Arguello Boulevard. Letter from Drexel Bradshaw, attorney for Jennifer Smith & Nicole Benton, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/22/2409. Permit Holder: A. Desta. PUBLIC HEARING HELD & CLOSED ON SEPTEMBER 12, 2001. FOR FURTHER CONSIDERATION TODAY.

Date Permit Issued:	January 31, 2001
Last Day to Appeal:	February 15, 2001
Date Jurisdiction Request Received:	August 15, 2001

(4) **APPEAL NO. 01-042**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[696 Pennsylvania Street.
[Notice of Violation issued February 1, 2001 [of
[Planning Code Sections 102.2, 102.13, 227(p)
[and of two Notices of Special Restriction for the
[property approved for use as live/work and
[alleged to have been converted to office use;
[the Planning Department requests that the
[violations be eliminated and documentation
[provided that the violations have been abated
[within 15 days of the Notice of Violation letter.
[HEARING HELD MAY 9, 2001.
[BOARD OVERRULED THE SUBJECT
[NOTICE OF VIOLATION (NO REQUEST FOR
[REHEARING WITHIN 10-DAYS OF
[DECISION). REQUESTS TO SET ASIDE
[RULES AND GRANT REHEARING
[CONSIDERED AUGUST 1, 2001, AND
[DENIED. WRIT FILD BY CITY ATTORNEY.
[FOR DISCUSSION & ACTION ON
[PROPOSED SETTLEMENT OF LITIGATION
[(SUPERIOR COURT NO. 323740).

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(5) **APPEAL NO. 01-145**

MARIO BENASSINI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[740 Vermont Street.
[Protesting issuance on August 10, 2001, to [Joyce Book, Permit to Alter a Building [(remodel first two stories, adding third story, [demolish existing garage on West side and [replace with new one-car garage).
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[FOR HEARING TODAY.

(6) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[699 Paris Street.
[Denial on March 20, 2001, of Minimum Lot [Size, Rear Yard, and Front Yard Variance [sought to subdivide a previously subdivided [3,150 s.f. corner parcel into two lots with the [new proposed vacant lot equaling [approximately 1,260 s.f., and construct a [new three story, single family dwelling on [the proposed subdivided vacant lot.
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[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-129**

J.M. JOHNSON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[4465-4467 – 24th Street.
[Appealing determination dated July 19, [2001, that there is no basis for granting legal [non-conforming status to the illegal third unit [on the subject property, and that if a zoning [reclassification is granted by the Planning [Commission and the Board of Supervisors, [a parking variance would be required for the [illegal third unit, as well as compliance with [all relevant provisions of City Codes.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-131**

UT HOU CHAN, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[138 – 16th Avenue.
[Appealing a Determination dated July 24, [2001, addressed to Cindy Lee at Feng & [Lee, LLP, that a new and accurate Planning [Code Section 311 Notice and plans are [warranted with respect to the project under [Building Permit Application No. [2000/05/26/1133 for the subject property.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-132**

PAULINE PIPER, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[389 Mangels Avenue.
[Protesting issuance on July 25, 2001, to [Christopher Mirkovich, Permit to Alter a [Building (new deck at rear, remodel kitchen [and bathroom, improvements to ground floor [accessory room, new bathroom and misc. [ground floor interior improvements, new [spa, patio and retaining wall at rear yard).
[APPLICATION NO. 2000/11/03/4818.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-134**

FRANK S. DUARTE, JR., Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1196 Hampshire Street.
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San Francisco, California 94103
(415) 575-6880

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DEPARTMENT 41

Board of Appeals

October 03, 2001

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 3, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders (who arrived at 6:00 p.m.), Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1)**PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2)**COMMISSIONERS COMMENTS AND QUESTIONS.**

SPEAKER: President Chin apologized to the audience for the cancellation of the meeting scheduled for September 19, 2001 and explained parking program for Commissioners, and directed staff to prepare a letter to the Board of Supervisors urging them to retain the money proposed for televising Board meetings for the general fund for use next year when the City budget will be drastically affected by the slowdown of the economy.

(3)**MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 2390- 39th Avenue. Letter from Paul Sacamano, Urban Forester, Dept. of Public Works, requesting rehearing of Appeal No. 01-121, Luo vs. DPW, heard August 29, 2001. Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner El Qadah absent) to OVERRULE the denial and GRANT the

subject permit on CONDITION that the replacement trees be listed on the "Street Tree Planting Guide" which is issued by the Urban Forestry Division of the Department of Public Works.

ACTION: Upon motion by Commissioner Cullum, the Board voted 2-2-1 (President Chin and Commissioner El Qadah dissented, Commissioner McInerney absent) to DENY the request for rehearing. Four votes being necessary to grant a rehearing, the motion PASSED, and the rehearing request was DENIED.

SPEAKERS: 1. Paul Sacamano, Urban Forester, Dept. of Public Works, requested that the Board grant a rehearing because his staff was otherwise committed and couldn't be present at the hearing and a rehearing would allow them to make their case in support of their denial of the permit for tree replacement, since the existing tree has not done any significant damage to the sewer or sidewalk and what little it has done can be easily repaired. His department has denied this application twice, he said. 2. Fred Martinez, representive of the appellant responded by explaining the procedural history of the application.

ITEM B: 751-755 Arguello Boulevard. Letter from Drexel Bradshaw, attorney for Jennifer Smith & Nicole Benton, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/22/2409. Permit Holder: A. Desta. PUBLIC HEARING HELD & CLOSED ON SEPTEMBER 12, 2001. FOR FURTHER CONSIDERATION TODAY.

Date Permit Issued: January 31, 2001

Last Day to Appeal: February 15, 2001

Date Jurisdiction Request Received: August 15, 2001

ACTION: This matter was CONTINUED to November 7, 2001 for further consideration.

(4)**APPEAL NO. 01-042**

R.A.M. DEVELOPMENT, INC., Appellant	[696 Pennsylvania Street.
vs.	[Notice of Violation issued February 1, 2001 [of [Planning Code Sections 102.2, 102.13, 227(p) [and of two Notices of Special Restriction for the [property approved for use as live/work and [alleged to have been converted to office use; [the Planning Department requests that the [violations be eliminated and documentation [provided that the violations have been abated [within 15 days of the Notice of Violation letter.
ZONING ADMINISTRATOR, Respondent	**[HEARING HELD MAY 9, 2001.**
	[BOARD OVERRULED THE SUBJECT [NOTICE OF VIOLATION (NO REQUEST FOR [REHEARING WITHIN 10-DAYS OF [DECISION). REQUESTS TO SET ASIDE [RULES

AND GRANT REHEARING [CONSIDERED AUGUST 1, 2001, AND [DENIED. WRIT FILD BY CITY ATTORNEY.

[FOR DISCUSSION & ACTION ON [PROPOSED SETTLEMENT OF LITIGATION [(SUPERIOR COURT NO. 323740).

ACTION: This matter was RESCHEDULED to October 10, 2001 prior to consideration.

(5)**APPEAL NO. 01-145**

MARIO BENASSINI, Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING DEPT. APPROVAL

[740 Vermont Street.

[Protesting issuance on August 10, 2001, to [Joyce Book, Permit to Alter a Building [(remodel first two stories, adding third story, [demolish existing garage on West side and [replace with new one-car garage).

[APPLICATION NO. 2000/10/05/2384S.

[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 to RESCHEDULE the matter to November 7, 2001 with no further rescheduling.

SPEAKERS: 1. Nicola Zunic, spoke for the appellant and asked the Board to continue this hearing because their attorney has dropped the case and they are seeking new counsel. 2. Joyce Book, permit holder, objected to a continuation since her project has been delayed for so long already. Milena Benassini, speaking for the appellant, said that there is a new attorney but he couldn't attend this hearing. Mrs. Book said that if it is continued then November 7, 2001 is her choice for a new hearing date.

(6) **APPEAL NO. V01-059**

MORGAN F. BENEDICTO, Appellant

vs.

ZONING ADMINISTRATOR, Respondent

[699 Paris Street.

[Denial on March 20, 2001, of Minimum Lot [Size, Rear Yard, and Front Yard Variance [sought to subdivide a previously subdivided [3,150 s.f. corner parcel into two lots with the [new proposed vacant lot equaling [approximately 1,260 s.f., and construct a [new three story, single family dwelling on [the proposed subdivided vacant lot.

[VARIANCE CASE NO. 2000.870V

[PUBLIC TESTIMONY HEARD JUNE 20, 2001 & AUGUST 8, 2001.

[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney absent) to OVERRULE the denial, and GRANT the variance with the following CONDITIONS: that a Notice of Special Restrictions (NSR) be recorded on the subject property that limits the use and sale of the subject property by/to teachers; that redwood siding be used; and that a fire-rated roof be used so as to eliminate the side parapet requirements.

SPEAKERS: 1. Larry Badiner, ZA, said that the case had been continued for research of the Notice of Special Restrictions (NSR) attached to the variance decision and that the issue had been the design of the proposed house at the rear. He said he couldn't find any NSRs but described the staff notes in the file. He couldn't explain why there is no NSR in the file. 2. Steven Currier, for the ZA, said he had gone through the file and there were no NSR's in it nor in the title report. The plans were in the file but no documentation. He said the neighborhood association involved there no longer exists. **Public Comment for the ZA:** 3. Aris Stratakis for the ZA a next door neighbor said she is in agreement with the City and that it appears the City dropped the ball in not getting an NSR recorded at the proper time. She asked the Board to deny this variance application because the appellant has no consideration for the neighbors. 4. Peter Mistho, for the appellant said he had no plans to move and he was present in 1990 and had fought to have any new development in the rear of the property. He thought a deed restriction would be recorded to assure this. Lack of NSR enough basis for decision in favor of ZA. And there is substantial neighborhood opposition to the application. **There was no public comment for appellant.**

(7)**APPEAL NO. 01-129**

J.M. JOHNSON, Appellant

vs.

ZONING ADMINISTRATOR, Respondent

[4465-4467 - 24th Street.

[Appealing determination dated July 19, [2001, that there is no basis for granting legal [non-conforming status to the illegal third unit [on the subject property, and that if a zoning [reclassification is granted by the Planning [Commission and the Board of Supervisors, [a parking variance would be required for the [illegal third unit, as well as compliance with [all relevant provisions of City Codes.

[FOR HEARING TODAY.

ACTION: This matter was RESCHEDULED to December 5, 2001 prior to hearing.

(8)**APPEAL NO. 01-131**

UT HOU CHAN, Appellant

[138 - 16th Avenue.

vs.

ZONING ADMINISTRATOR, Respondent

[Appealing a Determination dated July 24, [2001, addressed to Cindy Lee at Feng & [Lee, LLP, that a new and accurate Planning [Code Section 311 Notice and plans are [warranted with respect to the project under [Building Permit Application No. [2000/05/26/1133 for the subject property.

[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to OVERRULE the subject determination with CONDITIONS.

SPEAKERS: 1. Larry Badiner, ZA, explained why he felt a new 311 Notice was required in this case with original plan for the family home becoming a one-family home, both with the same envelope but the planner reviewing plans missed the need for a variance for the front setback problem. 2. David Cincotta, attorney for the appellant, described his agreement with Mr. Tam, the neighbor of Mr. Chan, the appellant. He said there has been no change in the plans that could trigger a new Section 311 notice requirement. He said the construction conforms to the plans. He noted that all the interested parties are here present providing the hearing Mr. Badiner sought and he described the ameliorating design features his client provided. **Public Comment for Zoning Administrator**:

3. Charlotte Prozan, a neighbor, said the appellant is disingenuous when he said he was building for his family and now the house is on the market for $2.2 million, which shocks her. The original notice and plans were confusing and so no one requested a Discretionary Review because they didn't understand how large the house would be; that it would be a monster house with 13 rooms and 4½ bathrooms and that it didn't meet the Residential Design Guidelines. 4. Arnold Wasserman said he agrees with former speaker. He said the bulk of the house and the lack of respect for the character of the neighborhood disturbed him most. 5. Lynda Sullivan said she has lived on the block for five years and the new house stands out like a sore thumb. She feels the notice was misleading and inaccurate. 6. Phillip Tam, a neighbor, said the appellant has agreed to move a light well so it won't block his window, and he now withdraws his objections to the project but he still supports the need for a new notice. PUBLIC COMMENT FOR APPELLANT: None.

(9)**APPEAL NO. 01-132**

PAULINE PIPER, Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING DEPARTMENT APPROVAL

[389 Mangels Avenue.

[Protesting issuance on July 25, 2001, to [Christopher Mirkovich, Permit to Alter a [Building (new deck at rear, remodel kitchen [and bathroom, improvements to ground floor [accessory room, new bathroom and misc. [ground floor interior improvements, new [spa, patio and retaining wall at rear yard).

[APPLICATION NO.

2000/11/03/4818.

[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted to UPHOLD the subject permit on CONDITION that the drainage pipe connect to the sewer system.

SPEAKERS: 1. Mark Piper, son of the appellant, said he has no problem with the project but is very concerned with the stability of the hillside which has been subject to landslides over the years. He hasn't been able to get any action from the many City departments he has complained to and no one seems to be responsible for the fire road in back. 2. Christopher Markovich, the permit holder said his retaining wall will be four or five feet in height. Andre Rothblatt, architect for the permit, described the wall. 3. Laurence Kornfield, CBI, DBI, said the wall must be designed by a licensed structural engineer and is to prevent sliding. He said that clearly there are slide problems here, and must drain into the sewer system. NO PUBLIC COMMENT.

(10)**APPEAL NO. 01-134**

FRANK S. DUARTE, JR., Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

[1196 Hampshire Street.

[Protesting issuance on August 13, 2001, to [William Sorenson & James Cline, Permit to [Alter A Building (complete work started [under Building Permit Application Nos. [9912409 and 2000/08/17/8163, correct [estimated cost and comply with Notice of [Violation).

[APPLICATION NO. 2001/08/13/5945.

[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 2-3 (Vice President Saunders, Commissioners Cullum and El Qadah dissented) to REVOKE the subject permit. Four votes being necessary to overturn any departmental action, the motion FAILED, and the subject permit was UPHELD.

SPEAKERS: 1. Laurence Kornfield said that there are at least four permits for this project and all are vague. He described which is considered a demolition under the Building Code, unless the whole building is removed.

2. Frank Duarte, the appellant, described the chronology of his efforts to follow the permits approved for the project and said in his view this is a demolition and should have a demolition permit. He said it should also provide a 45% rear yard as required by Sec. 134 pf the Planning Code for all residential buildings, especially since it is built so close to his property. There is no rear setback at all. 3. James Cline, co-permit holder and architect, responded by saying that this is not a demolition since it preserves one wall as part of the renovated building. The old building has not been completely razed and the project up to Code with the gable at 20'6" in height and the building is not a residence and therefore doesn't require a 45% of lot depth rear yard nor or rear yard variance as a building grandfathered in, built before rear yard standards were enacted. It was built in 1906 as shown on the

original permit. NO PUBLIC COMMENT FOR THE APPELLANT. PUBLIC COMMENT FOR PERMIT HOLDERS: 4. Dana Smoky said she has known the permit holders for a long time and they are a welcome addition to the neighborhood since they are restoring the old carriage house in an area where there was a drive-by shooting recently. She hopes the restoration is completed as soon as possible. 5. Larry Badiner, ZA, said that Section 188 of the Planning Code prohibits expansion of non-conforming use or structure. He felt the building has been razed and building a new one would require compliance with all the Code requirements including rear-yard standards unless a variance is sought and granted. Rebuilding of an NCU as it was is only permitted if the building has been destroyed by an Act of God which is not the case here, and he wasn't clear that a variance could be approved if filed.

There being no further business, President Chin adjourned the meeting at 8:23 p.m.

_____ _____

Arnold Y.K. Chin, President Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, OCTOBER 10, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 1021 Francisco Street. Letter from John Loughran, co-appellant, requesting rehearing of Appeal No. 01-118, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit issued to Lisa Giannone.

ITEM B: 1775 –1777 Yosemite & 1760 Armstrong Avenues. Letter from Kevin Greenquist, attorney for Permit Holder Les Silverman, requesting rehearing of Appeal No(s). 01-109/110/111/112, Wojak et al. vs. DBI, heard September 12, 2001. Upon motion by President Chin, the Board voted 1-4 (Vice President Saunders, Commissioners Cullum, McInerney & El Qadah dissented) to CONTINUE the matters to October 31, 2001, with the public hearing CLOSED. Three votes being necessary to continue a case, the motion FAILED. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to REVOKE all four permits.

ITEM C: 3615 – 20th Street. Letter from Jeremy Paul, agent for Project Sponsor Nina Hatvany, requesting rehearing of Appeal No. 01-146, Hatvany vs. ZA, heard September 12, 2001. Upon motion by Commissioner Cullum, the Board voted 4-0 to RECUSE Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney recused) to UPHOLD the Zoning Administrator's request on CONDITION that the project sponsor obtain a "Certificate of Appropriateness" from the Landmarks Preservation Advisory Board, and Conditional Use (CU) authorization from the Planning Commission if required to do so by the Zoning Administrator.

ITEM D: 957-959 Alabama Street. Letter from Javier Solorzano, agent for variance applicant Lourdes Sainez, requesting that the Board take jurisdiction over Variance Decision No. 2001.0516V.

Date Decision Issued: August 7, 2001
Last Day to Appeal: August 17, 2001
Jurisdiction Request Received: September 28, 2001

DOCUMENTS DEPT.

OCT - 5 2001

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PUBLIC LIBRARY

(4) **APPEAL NO. 01-042**

R.A.M. DEVELOPMENT, INC.. Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[696 Pennsylvania Street.
[Notice of Violation issued February 1, 2001 [of
[Planning Code Sections 102.2, 102.13, 227(p)
[and of two Notices of Special Restriction for the
[property approved for use as live/work and
[alleged to have been converted to office use;
[the Planning Department requests that the
[violations be eliminated and documentation
[provided that the violations have been abated
[within 15 days of the Notice of Violation letter.
[HEARING HELD MAY 9, 2001.
[BOARD OVERRULED THE SUBJECT
[NOTICE OF VIOLATION (NO REQUEST FOR
[REHEARING WITHIN 10-DAYS OF
[DECISION). REQUESTS TO SET ASIDE
[RULES AND GRANT REHEARING
[CONSIDERED AUGUST 1, 2001, AND
[DENIED. WRIT FILD BY CITY ATTORNEY.
[DISCUSSION AND ACTION TO IMPLEMENT
[A PROPOSAL BY THE PARTIES TO SETTLE
[LITIGATION (SUPERIOR COURT NO.
[323740). PURSUANT TO A JOINT REQUEST
[OF WRIT PETITIONERS CITY & COUNTY OF
[SANFRANCISCO AND ZONING
[ADMINISTRATOR AND REAL PARTY IN
[INTEREST R.A.M. DEVELOPMENT, INC.,
[THE BOARD HAS AGREED TO VACATE
[AND SET ASIDE ITS DECISION ON
[CONDITION THAT R.A.M. DEVELOPMENT,
[INC., WITHDRAWS ITS APPEAL, THE
[ZONING ADMINISTRATOR WITHDRAWS HIS
[NOTICE OF VIOLATION OF THE PLANNING
[CODE, AND PETITIONERS DISMISS THEIR
[PETITION FOR WRIT OF MANDATE.

(5) **APPEAL NO. 01-116**

ZHENG HAI PING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1835 – 47th Avenue.
[Protesting issuance on June 28, 2001, to
[Val Khomchenko, Permit to Alter a Building
[(legalize bathroom, remove illegal kitchen in
[illegal unit and replace it with storage space)
[APPLICATION NO. 2001/06/28/2618)
[PUBLIC HEARING HELD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. V01-135**

GRAHAM SCHNEIDER, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[740 Church Street.
[Appealing denial on August 9, 2001, of a Lot [Size Variance (subdivide existing 6,355sf lot [and create a new lot that is 1,752.75sf with [the remaining corner lot being 4,602.25sf, [with the existing building remaining on the [corner lot).
[FOR HEARING TODAY.

Items (7A) & (7B) Shall Be Heard Together:

(7A) **APPEAL NO. 01-136**

REBEKAH JACKSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1728-1732 Clement Street.
[Protesting issuance on August 1, 2001, to [Alex Liverant, Permit to Demolish a Building [(Two-story, three-unit building with 1600sf of [ground floor area).
[APPLICATION NO. 2000/09/25/1491.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-137**

REBEKAH JACKSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1728-1732 Clement Street.
[Protesting issuance on August 1, 2001, to [Alex Liverant, Site Permit to Erect a Building [(Four-story, three-unit condominium building [with 1500sf of ground floor area).
[APPLICATION NO.2000/09/25/1496S.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-138**

2836 WASHINGTON STREET, LLC, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

Section 14 Principal(s): None.

[2836 Washington Street.
[Appealing denial on August 16, 2001, of [Site Permit to Alter a Building (revise plans [under Building Permit Application No. [9903501 in order to retain pre-existing walls [to serve as a parapet for the roof).
[APPLICATION NO. 2001/05/11/8354S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-139**

SHELLEY SCHOLNICK & JACK WELCH, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[530 – 41st Avenue.
[Protesting issuance on August 16, 2001, to [Arkady Kitover, Permit to Alter a Building [(remove illegal separate unit, remove all [manifestations of separate tenancy including [stove, and restore lower level rooms to prior [legal use as accessory rooms to single [family residence).
[APPLICATION NO. 2001/08/16/6274.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-140**

JODI DAPRANO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[927-933 Greenwich Street.
[Appealing a Notice of Violation dated August [8, 2001, alleging that a commercial use [exists on the ground floor of the subject [property, which is located in an RM-1 zoning [district, in violation of Planning Code Section [209.8, and that historical records show a [pre-existing Non-Conforming Commercial [Use dating back to 1919 that was [abandoned in 1960.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-143**

ALLAN & ANNE LERCH, BARRY & MARIE LIPMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[33 Walnut Street.
[Protesting issuance on August 10, 2001, to [Carol Smith and Jack Russo, Site Permit to [Alter a Building (demolition of existing rear [deck and wall on first/second floors to [provide for new rear two-story addition, [interior remodeling of kitchen, addition of [powder room on second floor).
[APPLICATION NO. 2000/05/01/8654S.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: October 4, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 10, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

SPEAKERS: None.

(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 1021 Francisco Street. Letter from John Loughran, co-appellant, requesting rehearing of Appeal No. 01-118, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit issued to Lisa Giannone.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to DENY the request for rehearing.

SPEAKERS: Ginny Loughran, co-appellant and wife of the appellant, requested that the Board grant a rehearing because they are losing their privacy with the permit holder's project and there is a 3', 3" discrepancy in the plans on the proposed monster home project. Jack Scott speaking for the permit holders said it is practically impossible for the neighbors next door to see the affected portion of the house. He explained that the Certificate of Final Completion is issued for energy usage purposes and is not relevant here and the document says this is for one-family use only and that the Assessor's record may be inaccurate.

ITEM B: 1775 –1777 Yosemite & 1760 Armstrong Avenues. Letter from Kevin Greenquist, attorney for Permit Holder Les Silverman, requesting rehearing of Appeal No(s). 01-109/110/111/112, Wojak et al. vs. DBI, heard September 12, 2001. Upon motion by President Chin, the Board voted 1-4 (Vice President Saunders, Commissioners Cullum, McInerney & El Qadah dissented) to CONTINUE the matters to October 31, 2001, with the public hearing CLOSED. Three votes being necessary to continue a case, the motion FAILED. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to REVOKE all four permits.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 3-2 (President Chin and Commissioner McInerney dissented) to DENY the request for rehearing.

SPEAKERS: Kevin Greenquist, attorney for permit holder, said that the new evidence to be submitted if a rehearing is granted is the precise estimate from the contractor for the work necessary on the building to bring it up to Code for residential use and that the estimate was not available at the time of the hearing. He said his client has Hobson's choice since the permits necessary to abate the Fire Code violations is denied by the Board making him liable for the on-going violations which he can't correct without the permits. Steve Collier representing the appellant urged the Board to deny the rehearing for the reason the so-called new evidence was available at the hearing held on September 12th are the documents is listed September 13th. He said that Charles Silverman, one of the owners

of the property, had said that the Fire Department wasn't enforcing because of the Board's denial of the permits. He reminded the Board that President Chin's suggestion at the hearing that the appeal be continued to October 3st (or 31st) ???? was objected to by the permit holder's attorney, Mr. Fried, who objected and asked for a ruling that might end this. Mr. Fried knew he had the estimate and if had agreed to a continuous could have presented it to the Board before it acted on the appeal.

ITEM C: 3615 – 20th Street. Letter from Jeremy Paul, agent for Project Sponsor Nina Hatvany, requesting rehearing of Appeal No. 01-146, Hatvany vs. ZA, heard September 12, 2001. Upon motion by Commissioner Cullum, the Board voted 4-0 to RECUSE Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney recused) to UPHOLD the Zoning Administrator's request on CONDITION that the project sponsor obtain a "Certificate of Appropriateness" from the Landmarks Preservation Advisory Board, and Conditional Use (CU) authorization from the Planning Commission if required to do so by the Zoning Administrator.

ACTION: Upon motion by President Chin, the Board voted 4-0 to RECUSE Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney recused) to DENY the request for rehearing.

SPEAKERS: Jeremy Paul requested a rehearing to clarify the Board's decision which was made after the protest appeal was withdrawn by the protestor. He said the client's attorney couldn't be present but was needed to analyze the legal aspects of the matter. He reminded the Board that there were two appeals in this case and the withdrawal of the first one put the second appeal in a different light which he is unable to explain since is not an attorney. His client is pursuing a Certificate of Appropriateness as required by the Board. Larry Badiner, ZA, said that he has no objection to a rehearing and that he would respond in writing to a request in writing on the issue of whether the permit holder is required to obtain conditional use authorization for the project; such a determination may be appealed to the Board.

ITEM D: 957-959 Alabama Street. Letter from Javier Solorzano, agent for variance applicant Lourdes Sainez, requesting that the Board take jurisdiction over Variance Decision No. 2001.0516V.

Date Decision Issued:	August 7, 2001
Last Day to Appeal:	August 17, 2001
Jurisdiction Request Received:	September 28, 2001

ACTION: Upon motion by President Chin, the Board voted 3-2 (Commissioners Cullum and McInerney dissented) to GRANT the request for jurisdiction. Four votes being necessary to take jurisdiction over any departmental action, the motion FAILED, and jurisdiction was DENIED.

SPEAKERS: Javier Solorzano speaking for the variance applicant requesting a new ten-day appeal period, said that she had been in Mexico for two months and didn't see the decision until her return to the City. He asked the Board to read the last paragraph of the ZA's finding No. 2. He said he was delayed in making this request because he had tried to have the ZA reissue the decision with a new date to allow for an appeal. Larry Badiner, ZA, said the requester could have indicated at the variance hearing that the would be out of the country and he would have waited and issued the variance in enough time to allow for a timely appeal by her, but she didn't indicate her need for a later issuance or she could have indicated another person to send it to who could act in her behalf and meet the ten-day appeal period, but she didn't do that either. He said he expected that a property owner would leave someone in charge during a lengthy trip and she is a substantial property owner.

(4) **APPEAL NO. 01-042**

R.A.M. DEVELOPMENT, INC., Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[696 Pennsylvania Street.
[Notice of Violation issued February 1, 2001 [of
[Planning Code Sections 102.2, 102.13, 227(p)
[and of two Notices of Special Restriction for the
[property approved for use as live/work and
[alleged to have been converted to office use;
[the Planning Department requests that the
[violations be eliminated and documentation
[provided that the violations have been abated
[within 15 days of the Notice of Violation letter.
[HEARING HELD MAY 9, 2001.
[BOARD OVERRULED THE SUBJECT
[NOTICE OF VIOLATION (NO REQUEST FOR
[REHEARING WITHIN 10-DAYS OF
[DECISION). REQUESTS TO SET ASIDE
[RULES AND GRANT REHEARING
[CONSIDERED AUGUST 1, 2001, AND
[DENIED. WRIT FILED BY CITY ATTORNEY.
[DISCUSSION AND ACTION TO IMPLEMENT
[A PROPOSAL BY THE PARTIES TO SETTLE
[LITIGATION (SUPERIOR COURT NO.
[323740). PURSUANT TO A JOINT REQUEST
[OF WRIT PETITIONERS CITY & COUNTY OF
[SAN FRANCISCO AND ZONING
[ADMINISTRATOR AND REAL PARTY IN
[INTEREST R.A.M. DEVELOPMENT, INC.,
[THE BOARD HAS AGREED TO VACATE
[AND SET ASIDE ITS DECISION ON
[CONDITION THAT R.A.M. DEVELOPMENT,
[INC., WITHDRAWS ITS APPEAL, THE
[ZONING ADMINISTRATOR WITHDRAWS HIS
[NOTICE OF VIOLATION OF THE PLANNING
[CODE, AND PETITIONERS DISMISS THEIR
[PETITION FOR WRIT OF MANDATE.

ACTION: Upon motion by President Chin, the Board voted 5-0 to ADOPT the subject settlement and vacate and set aside its decision of May 9, 2001 on condition that a) R.A.M. Development withdraw its appeal of the subject Notice of Violation; b) that the Zoning Administrator withdraws his Notice of Violation of the Planning Code; c) and that the City Attorney and Zoning Administrator dismiss their petition for writ of mandate.

SPEAKERS: Judith Boyajian reported that Peter Keith the Deputy City Attorney who was handling this case had agreed to the proposed settlement and would withdraw his action once the Board rescinded its decision at the Zoning Administrator withdrew his Notice of Decision. John Sanger representing the appellant said his client concurs with the settlement. No Public Comments.

(5) **APPEAL NO. 01-116**

ZHENG HAI PING, Appellant
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1835 – 47th Avenue.
[Protesting issuance on June 28, 2001, to
[Val Khomchenko, Permit to Alter a Building
[(legalize bathroom, remove illegal kitchen in
[illegal unit and replace it with storage space)
[APPLICATION NO. 2001/06/28/2618)
[PUBLIC HEARING HELD AUGUST 22,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: This matter was WITHDRAWN orally by the appellant, with a private settlement read into the record by the appellant, his wife, and the permit holder's attorney.

SPEAKERS: Zheng Hai Ping, appellant, reminded the Board of the report by the Chief Building Inspector of the condition of the unit. Daniel Bornstein, attorney for the permit holder, reminded the Board why the matter has been continued, to allow time for parties to reach agreement, but the appellant is intransigent and he asks the Board to uphold the permit. He said his client had offered the appellant $5,000 to move. The appellant, after negotiations with the permit holder, accepted an offer and agreed to withdraw his appeal in return for a sixty-day delay (December 6) in moving out and payment to him of $5,000. Mrs. Ping clarified that the amount agreed to is $7,000 and a waiver of rent until December 6th. No public comment for either side.

(6) **APPEAL NO. V01-135**

GRAHAM SCHNEIDER, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[740 Church Street.
[Appealing denial on August 9, 2001, of a Lot
[Size Variance (subdivide existing 6,355sf lot
[and create a new lot that is 1,752.75sf with
[the remaining corner lot being 4,602.25sf,
[with the existing building remaining on the
[corner lot).
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to CONTINUE the matter to January 9, 2002, with the public hearing CLOSED.

SPEAKERS: Larry Badiner, ZA, said there is no guarantee that the appellant will be permitted maximum density and that there was no hardship that could justify granting variance. He said this lot is deeper and longer than the lots nearby. The creation of a small lot would be out of character with the neighborhood and the appellant has a variety of options to develop without a variance. David Levy, attorney for the appellant, said his client had negotiated with the neighbors before the hearing in August. All the lots on the block have houses in their rear yards except the appellant's. He said the granting of the variance would benefit the City by allowing construction of a house during a severe housing shortage. It would replace a portion of the existing long bleak wall which would improve the neighborhood. He said the nineteen conditions agreed to by his client would ameliorate the effect of the project which would not be a determent to the neighborhood. Graham Schneider, appellant, said the proposal is for a one-family house only while seven units are allowed. He said the front setback is huge and provides open space. **Public Comment for Zoning Administrator**: John Johnson of 730 Church Street, said the appellant has made no concessions on the major issues and the proposed house will interfere with neighbors' privacy and block their sunlight since it will be only fifteen feet away from them. John Baumgartner said he has been involved since the beginning and that the so-called concessions were only things required by the Code and what they had requested had been rejected by the appellant. He said appellant knew of opposition to such development when he purchased as part of required disclosure by seller. Tomas Lathan for the ZA said the ZA is correct and these five requirements have not been met in this case. He lives at 240 Cumberland in apartment 106. Linette Hayes has a studio and the proposed project would disturb her and many trees would be lost. She will have to move. **Public Comment for the Appellant:** Steve Hall of the Friends of Noe Valley asked if the Commission had made a site visit so they can see that light and air arguments are bogus and the neighborhood is already dense and with a fifteen-foot setback the proposed house would be acceptable and the neighbor's views improved.

Items (7A) & (7B) Shall Be Heard Together:

(7A) **APPEAL NO. 01-136**

REBEKAH JACKSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1728-1732 Clement Street.
[Protesting issuance on August 1, 2001, to
[Alex Liverant, Permit to Demolish a Building
[(Two-story, three-unit building with 1600sf of
[ground floor area).
[APPLICATION NO. 2000/09/25/1491.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-137**

REBEKAH JACKSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1728-1732 Clement Street.
[Protesting issuance on August 1, 2001, to
[Alex Liverant, Site Permit to Erect a Building
[(Four-story, three-unit condominium building
[with 1500sf of ground floor area).
[APPLICATION NO.2000/09/25/1496S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to UPHOLD both permits with the CONDITIONS as stipulated to by the parties.

SPEAKERS: No appearances made.

(8) **APPEAL NO. 01-138**

2836 WASHINGTON STREET, LLC, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

Section 14 Principal(s): None.

[2836 Washington Street.
[Appealing denial on August 16, 2001, of
[Site Permit to Alter a Building (revise plans
[under Building Permit Application No.
[9903501 in order to retain pre-existing walls
[to serve as a parapet for the roof).
[APPLICATION NO. 2001/05/11/8354S.
[FOR HEARING TODAY.

ACTION: This matter was RESCHEDULED to the Indefinite Calendar or "Call of the Chair" due to failure to perfect the appeal by the Appellant.

(9) **APPEAL NO. 01-139**

SHELLEY SCHOLNICK & JACK WELCH, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[530 – 41st Avenue.
[Protesting issuance on August 16, 2001, to
[Arkady Kitover, Permit to Alter a Building
[(remove illegal separate unit, remove all
[manifestations of separate tenancy including
[stove, and restore lower level rooms to prior
[legal use as accessory rooms to single
[family residence).
[APPLICATION NO. 2001/08/16/6274.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to RESCHEDULE the matter to November 7, 2001, with no further rescheduling allowed.

SPEAKERS: Nina Kitova, permit holder, strongly objected to a continuance of this appeal because of the hardship it will be for her to delay a decision. She said she is in great financial difficulties. Scott Bonagofsky, attorney for

the appellants agreed to continue the appeal to November 7, 2001 so that it could be heard by all five Commissioners. (Vice President Saunders had left the meeting to meet a family emergency).

(10) **APPEAL NO. 01-140**

JODI DAPRANO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[927-933 Greenwich Street.
[Appealing a Notice of Violation dated August [8, 2001, alleging that a commercial use [exists on the ground floor of the subject [property, which is located in an RM-1 zoning [district, in violation of Planning Code Section [209.8, and that historical records show a [pre-existing Non-Conforming Commercial [Use dating back to 1919 that was [abandoned in 1960.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Vice President Saunders absent) to RESCHEDULE the matter to November 7, 2001.

SPEAKERS: Larry Badiner, ZA, requested the hearing be rescheduled so all five Commissioners can be present. Jodi Daprano, appellant, agreed to a continuance to November 7, 2001.

(11) **APPEAL NO. 01-143**

ALLAN & ANNE LERCH, BARRY & MARIE LIPMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[33 Walnut Street.
[Protesting issuance on August 10, 2001, to [Carol Smith and Jack Russo, Site Permit to [Alter a Building (demolition of existing rear [deck and wall on first/second floors to [provide for new rear two-story addition, [interior remodeling of kitchen, and addition of [powder room on second floor).
[APPLICATION NO. 2000/05/01/8654S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-1-1 (Commissioner McInerney dissented and Vice President Saunders absent) to RESCHEDULE the matter to November 7, 2001, with no further rescheduling allowed.

SPEAKERS: Alan Lerch, appellant requested his appeal be continued to November 7, 2001 so that it could be heard by all five Commissioners. Scott Emblidge, attorney for permit holder objected to a continuance and said he wanted to go forward with the hearing even though only four Commissioners would be present. so that his client might be able to begin construction this year before the rainy season.

There being no further business, President Chin adjourned the meeting at 7:59 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

Board of Appeals

October 24, 2001

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, OCTOBER 24, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1)**PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2)**COMMISSIONERS COMMENTS AND QUESTIONS:**

ITEM A: Consideration of a method or rule to limit meetings by setting a specific time for adjournment or other method.

(3)**MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

None.

(4)**APPEAL NO. 01-133**

TRACY THOMPSON, Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING DEPARTMENT APPROVAL

[1041 Lake Street.

[Protesting issuance on July 30, 2001, to [Adam Dierkhising, Site Permit to Alter a [Building (add third story and attic room, [construct second story deck, remodel [driveway and front steps).

[APPLICATION NO. 2000/09/07/9909S.

[FOR HEARING TODAY.

ITEMS (5A) & (5B) SHALL BE HEARD TOGETHER:

(5A)**APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant

vs.

ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.

[Zoning Administrator Determination dated [April 24, 2001, addressed to Randy Shaw of [the Tenderloin Housing Clinic, that the [previous tourist hotel use, the Empress [Hotel, located in the North of Market Special [Use District No.1 was a non-conforming use [under Planning Code Section 180, that the [tourist hotel use has been discontinued for a [continuous period of at least three years and [tourist hotel use may not be re-established [except in compliance with present [requirements of City Codes as applicable.

[FOR HEARING TODAY.

(5B)**APPEAL NO. 01-082**

EMPRESS LLC, Appellant

vs.

ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.

[Zoning Administrator Determination dated [April 24, 2001, addressed to Randy Shaw of [the Tenderloin Housing Clinic, that the [previous tourist hotel use, the Empress [Hotel, located in the North of Market Special [Use District No.1 was a non-conforming use [under Planning Code Section 180, that the [tourist hotel use has been discontinued for a [continuous period of at least three years and [tourist hotel use may not be re-established [except in compliance with present [requirements of City Codes as applicable.

[FOR HEARING TODAY.

(6)**APPEAL NO. 00-255**

VERONICA & GEORGE TEDESCHI, Appellants

vs.

ZONING ADMINISTRATOR, Respondent

[2526 Clement Street.

[Notice of Violation dated December 8, [2000, that the cottage in the rear yard used [for human habitation is in conflict with the [RH-2 use district

limitations allowing a [maximum of two dwelling units on the site.

[FOR HEARING TODAY.

(7)**APPEAL NO. 01-151**

KARP FAMILY TRUST, Appellant

vs.

POLICE DEPARTMENT, Respondent

[2391 Mission Street.

[Protesting issuance on August 22, 2001, to [Miguel Aguilar-Zapata dba "Mission Villa [Restaurant", Conditional Place of [Entertainment Permit.

[FOR HEARING TODAY.

(8)**APPEAL NO. 01-142**

JAMES C. CLARK, Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING DEPT. APPROVAL

[2857 Divisadero Street.

[Protesting issuance on August 8, 2001, to [Allan Kipperman, Permit to Alter a Building [(amendments to Building Permit Application [No. 981314, add three skylights, change

[40 X 40 skylight to 40 X 80 skylight, add [decorative non-combustible railing).

[APPLICATION NO. 2001/08/08/5549.

[FOR HEARING TODAY.

(9)**APPEAL NO. 01-147**

KENNETH DeLONG, Appellant

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING DEPT. DISAPPROVAL

[111 Castro Street.

[Appealing denial on August 13, 2001, of [Permit to Alter a Building (comply with [Notice of Violation, repair deck, new [staircase with landing, and siding repairs).

[APPLICATION NO. 9920845.

[FOR HEARING TODAY.

(10)**APPEAL NO. 01-108**

ELIAS PAMFILIS, Appellant

[544 Precita Avenue.

vs.

ZONING ADMINISTRATOR, Respondent

[Appeal of Cease and Desist Order dated [June 13, 2001, that the subject property is [being used for storage of paint, painting [supplies and related equipment in amounts [exceeding residential use, and that [inoperable vehicles and other material being [stored outside have eliminated the required [usable open space on the subject property, [in violation of Sections 171, 202, 209 and [135 of the Planning Code.

[PROGRESS REPORT FROM THE ZONING [ADMINISTRATOR HEARD AUGUST 29, [2001.

[FOR HEARING TODAY.

(11)**APPEAL NO. 01-130**

TUDOR HILL TENANTS ASSOCIATION, Appellant

vs.

ZONING ADMINISTRATOR, Respondent

[1111-1113 Green Street.

[Protesting determination by the Zoning [Administrator, dated July 24, 2001, [addressed to George Hoffberg, subject [property at 1111-1113 Green Street, that the [proposal under Building Permit Application [No. 2001/03/13/4165 to convert one ["uninhabitable" room, at the lowest floor of [the building, to a new bedroom connected to [the unit above by an interior stairway, and to [replace two existing interior storage room [doors with full height doors, is permitted at [the subject property.

[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: October 18, 2001

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 24, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

(2) **COMMISSIONERS COMMENTS AND QUESTIONS:**

ITEM A: Consideration of a method or rule to limit meetings by setting a specific time for adjournment or other method. Commissioner McIneney said he opposed limiting time for meetings because it will inconvenience the public, both permit holders and protestors. Commissioner El Qadah said he shares the thought of Commissioner McIneney. Vice President Saunders said it was a good idea to limit the time for meetings because she loses focus after 10:00 p.m. She thought it is best to not call items after 10:00 p.m. Commissioner Cullum said late meetings are not fair to parties. President Chin directed staff to schedule a rule amendment hearing for the meeting of November 14 to consider changing the time for meeting at 5:00 p.m. instead of the present 5:30 P.M. There was no opposition. All agreed to this idea.

ACTION: Upon motion by President Chin, the Board voted 5-0 to calendar an item on the November 7, 2001 agenda concerning an amendment to the Board rules that would change the start time of meetings from 5:30 p.m. to 5:00 p.m.

SPEAKERS: None

DOCUMENTS DEPT.

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(3) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

None.

(4) **APPEAL NO. 01-133**

TRACY THOMPSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1041 Lake Street.
[Protesting issuance on July 30, 2001, to [Adam Dierkhising, Site Permit to Alter a [Building (add third story and attic room, [construct second story deck, remodel [driveway and front steps).
[APPLICATION NO. 2000/09/07/9909S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInemey, the Board voted 4-1 (Commissioner Cullum dissented) to UPHOLD the subject permit with no changes.

SPEAKERS: Tracy Thompson, appellant, said the Planning Commission failed to require adequate Section 311 notice to neighbors and that the transcript of the DR hearing reveals that it considered illegal information in making its decision. The project is four stories and not three stories in height. John Sanger, attorney for the permit holder answered that no additional Section 311 notice had been required. The Director of Planning had called project a three- story building. He said plans are always modified by the DL process and planning reviews as they were here and that the approved plans are compatible with the neighborhood, and comply with the Residential Design Guidelines, including the height of the proposed building. Larry Badiner, the ZA, said his recollection of the Planning hearing was different than the first speaker and that additional notice was not required for the modification made by the Commission and those that resulted from those done to meet departmental concerns. The approved attic is not to be occupied, only three stories may be. Rafael Torres-Gil, senior building inspector for DBI, said that under the Building Code the attic is a fourth story which triggers a full sprinkler requirement. He said the plan checker thought it was a three-story building and therefore the plans would have to be checked again to insure they meet the code for a four-story house. To legalize the attic it would be limited to storage use, and that ceiling height is not relevant to definition of story. PUBLIC COMMENTS FOR APPELLANT: Helen Lantz speaking for Barbara Gault who was unable to be present. She said that the Commission had been told it was to be a three-story building only. The proposed house will be too big and not in character with the neighborhood; and that the nearby buildings which are higher are all multi-family buildings, not one-family buildings. Chuck Lantz said he had been at the Commission meeting and that the Planning staff had deemed the proposal a four-story house. He said there had been discussion of a sketch but that no one saw any plans. There had been no meetings with the neighbors and that plans show three stories and an attic room. He wants a development that fits in the neighborhood. Hiroshi Fukuda of 18th Avenue said it seems to be a four-story house to him. He thought that the architect and the Planning staff could figure out an acceptable plan. NO PUBLIC COMMENTS FOR PERMIT HOLDER

ITEMS (5A) & (5B) WERE HEARD TOGETHER:

(5A) **APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated [April 24, 2001, addressed to Randy Shaw of [the Tenderloin Housing Clinic, that the [previous tourist hotel use, the Empress [Hotel, located in the North of Market Special [Use District No.1 was a non-conforming use [under Planning Code Section 180, that the [tourist hotel use has been discontinued for a [continuous period of at least three years and [tourist hotel use may not be re-established [except in compliance with present [requirements of City Codes as applicable.
[FOR HEARING TODAY.

MEETING MINUTES, BOARD OF APPEALS, OCTOBER 24, 2001

(5B) **APPEAL NO. 01-082**

EMPRESS LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated [April 24, 2001, addressed to Randy Shaw of [the Tenderloin Housing Clinic, that the [previous tourist hotel use, the Empress [Hotel, located in the North of Market Special [Use District No.1 was a non-conforming use [under Planning Code Section 180, that the [tourist hotel use has been discontinued for a [continuous period of at least three years and [tourist hotel use may not be re-established [except in compliance with present [requirements of City Codes as applicable.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue THE MATTERS TO November 28, 2001, with appellants to submit a complete permit history, and for the Dept. of Building Inspection to submit a copy of the report by Housing Inspector Bosque addressed to Rick Crawford at the Planning Dept., and with the public hearing CLOSED.

SPEAKERS: Larry Badiner, ZA, said that based on items submitted that the hotel has been vacant for twenty years, evidence that the hotel use has been abandoned, and that no new tourist hotels are permitted in this zoning district, the North of Market. A lawfully existing tourist hotel is now a non-conforming use. But here the use was abandoned and can't be continued. The owner allowing the building to be vacant for twenty years shows his intent to abandon the tourist use for at least three years, the period specific in the Planning Code and he must comply with present Code standards. Andrew Zacks, attorney for the owner, V. J. Patel, said that Mr. Patel's declaration makes clear that he has no intent to abandon the tourist use of the hotel. He submitted a City Attorney Opinion that he says supports his arguments as well as a court of appeals published decision. Every summer these hotels rent to tourists and to residents in the winter. Phil Ward, attorney for the hotel operator and renovator, said his client has a thirty-year lease on the property, for a mixed-use hotel which will be operated as a moderate priced facility for tourists. He said it is ready to reopen in a month after his client put $2 million into renovation and that they have a vested right to use 58 rooms for tourists at modest rates. Randy Shaw, addressee of the determination said that the ZA is right that this is a clear case of abandonment and that this is not a case of an NCU. PUBLIC COMMENT FOR ZA: James Tracy said that upholding the ZA will send a message to landlords and will clear the record and be an ethical example. As the Empress goes, so goes the neighborhood. Ron Groshardt said that he supports Randy Shaw and there is no vested interest, just because $2 million was spent on renovation. Delphine Brody said that there are 15,000 homeless in the City and housing is desperately needed and feels that all 88 rooms should be for residential use. Prince Bush said that we need residential rooms and not tourist rooms. The Tenderloin has the highest rents in the City. PUBLIC COMMENT FOR APPELLANTS: Vinay Patel said he spoke to the owner about why the Empress was shut down for twenty years. He was told that owners didn't have the resources to do necessary renovation, but now it has all come together and they have partners and it is now economically possible. Rafael Torres-Gil, Senior Building Inspector, DBI, read from a report from Housing Inspector Rosemary Bosque, an expert on Single Room Occupancy concerning the history of use of the building.

(6) **APPEAL NO. 00-255**

VERONICA & GEORGE TEDESCHI, Appellants
vs.
ZONING ADMINISTRATOR, Respondent

[2526 Clement Street.
[Notice of Violation dated December 8, [2000, that the cottage in the rear yard used [for human habitation is in conflict with the [RH-2 use district limitations allowing a [maximum of two dwelling units on the site.
[FOR HEARING TODAY.

ACTION: This matter was RESCHEDULED to December 12, 2001 prior to hearing.

MEETING MINUTES, BOARD OF APPEALS, OCTOBER 24, 2001

(7) **APPEAL NO. 01-151**

KARP FAMILY TRUST, Appellant
vs.
POLICE DEPARTMENT, Respondent

[2391 Mission Street.
[Protesting issuance on August 22, 2001, to
[Miguel Aguilar-Zapata dba "Mission Villa
[Restaurant", Conditional Place of
[Entertainment Permit.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: Joseph Karp, appellant, said that he has filed an unlawful detainer action against the permit holder, and he has no problem with President Chin hearing this case. He opposes because the two upstairs tenants have complained to him about the noise from the restaurant and the permit holder refuses to reduce the noise. The lease is for a restaurant only and not for musical establishment. Sgt. William Coggan of the S.F.P.D. said he doesn't disagree with Mr. Karp. The Chief made this a conditional permit and if conditions are not met there is no permit. Officer Anzore Noise Unit, said he did visit site on Friday night but there was only one instrument there, a bass, so he did no test. He said if music is audible to any business or residential tenant in the building the permit is not issued. Migual-Aguilar Zapata, permit holder, said this was never an issue before. He said he had had music for ten years and now Police Department requires a permit. He said he intends to comply with all regulations. The women upstairs do not respond to his calls. NO PUBLIC COMMENT FOR EITHER PARTY.

(8) **APPEAL NO. 01-142**

JAMES C. CLARK, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2857 Divisadero Street.
[Protesting issuance on August 8, 2001, to
[Allan Kipperman, Permit to Alter a Building
[(amendments to Building Permit Application
[No. 981314, add three skylights, change
[40 X 40 skylight to 40 X 80 skylight, add
[decorative non-combustible railing).
[APPLICATION NO. 2001/08/08/5549.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: Robert Fulton for appellant, said he had tried to meet with architect but there has been no agreement. The issues are the deck railing and the four skylights. He feels that required Section 311 notice was not given and the permit holder used the wrong measurements. David Cincotta, attorney for the permit holder, said his client tried to avoid problems with neighbors and that the Code is clear as to railings and skylights, both permitted and exempted from height limits. He said the issue for the appellant was his view, which is not protected by the Code. He said his client had made the project as inconspicuous as possible. Larry Badiner, ZA, said that Section 311 noticewas not required for this project. Rafael Torres-Gil, SBI, said that he had made a site visit and it meets Codes, and can be approved. NO PUBLIC COMMENT FOR EITHER PARTY.

(9) **APPEAL NO. 01-147**

KENNETH DeLONG, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

[111 Castro Street.
[Appealing denial on August 13, 2001, of [Permit to Alter a Building (comply with [Notice of Violation, repair deck, new [staircase with landing, and siding repairs).
[APPLICATION NO. 9920845.
[FOR HEARING TODAY.

ACTION: The Zoning Administrator WITHDREW the denial of the subject permit on behalf of the Planning Dept. and thus the Board lost subject matter jurisdiction over the matter. APPEAL WITHDRAWN.

SPEAKERS: Larry Badiner, ZA, said that his staff had made an error in saying project not within Code and he withdrew his denial. Jeremy Paul for the appellant said he therefore withdraws the appeal and the work has already been done without a permit.

(10) **APPEAL NO. 01-108**

ELIAS PAMFILIS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[544 Precita Avenue.
[Appeal of Cease and Desist Order dated [June 13, 2001, that the subject property is [being used for storage of paint, painting [supplies and related equipment in amounts [exceeding residential use, and that [inoperable vehicles and other material being [stored outside have eliminated the required [usable open space on the subject property, [in violation of Sections 171, 202, 209 and [135 of the Planning Code.
[PROGRESS REPORT FROM THE ZONING [ADMINISTRATOR HEARD AUGUST 29, [2001.
[FOR HEARING TODAY.

ACTION: This matter was RESCHEDULED to November 7, 2001 prior to hearing.

(11) **APPEAL NO. 01-130**

TUDOR HILL TENANTS ASSOCIATION, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1111-1113 Green Street.
[Protesting determination by the Zoning [Administrator, dated July 24, 2001, [addressed to George Hoffberg, subject [property at 1111-1113 Green Street, that the [proposal under Building Permit Application [No. 2001/03/13/4165 to convert one ["uninhabitable" room, at the lowest floor of [the building, to a new bedroom connected to [the unit above by an interior stairway, and to [replace two existing interior storage room [doors with full height doors, is permitted at [the subject property.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-1 (Commissioner McInerney dissented) to

ACTION: Upon motion by President Chin, the Board voted 4-1 (Commissioner McInerney dissented) to OVERRULE the subject determination.

SPEAKERS: Larry Badiner said the basement space cannot be used as a separate unit as recorded in the NSR, but nothing says the space cannot be used as part of the unit above. Mark Middleton for the appellant, gave the lengthy background of the appellant's attempt to prevent the determination holder from using the basement space for creating an illegal unit or disrupting the use of the apartment above and the owner continues to try to add an illegal unit. The building needs sprinklering throughout. George Hoffberg, owner, said that he had gone to jail because of the illegal unit and he now intended to follow all regulations. PUBLIC COMMENT FOR APPELLANTS: Sarah Luger, tenant in the unit above disputed space, said that she opposes the owner's attempt to add the lower space to her unit and that he refuses to obey the rulings. She heard loud rumblings below her and knew he was trying something. His continuous construction is an abuse of the procedures. She has a lease for her apartment and what owner is trying to do will not be safe for her. Chris White spoke in support of the appellants. NO PUBLIC COMMENT FOR OWNER. Paul Carlstrom spoke for the appellants and said that the owner hasn't the right to change the tenancy according to the Rent Board. Rafael Torres-Gil, Senior Building Inspector, DBI, said that if it is a four-story building then it must be sprinklered throughout. He said the space has been there since the 1980's and it was habitable space, but its use is restricted. It is an appendage to unit above and not a separate unit.

There being no further business, President Chin adjourned the meeting at 10:05 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, NOVEMBER 7, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS:**

(3) **AMENDMENT TO RULES OF BOARD:**

Public hearing and consideration of amendment to Article I, Section I of the Rules of the Board of Appeals to change time of regular meetings from 5:30 p.m. Wednesdays to 5:00 p.m. Copies of Board Rules available at the Board office.

(4) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 751-755 Arguello Boulevard. Letter from Drexel Bradshaw, attorney for Jennifer Smith & Nicole Benton, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/22/2409. Permit Holder: A. Desta. PUBLIC HEARING HELD & CLOSED ON SEPTEMBER 12, 2001. FOR FURTHER CONSIDERATION TODAY.

Date Permit Issued:	January 31, 2001
Last Day to Appeal:	February 15, 2001
Date Jurisdiction Request Received:	August 15, 2001

ITEM B: 1196 Hampshire Street. Letter from Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection, and Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-134, Duarte vs. DBI, heard October 3, 2001. Upon motion by Commissioner McInerney, the Board voted 2-3 (Vice President Saunders, Commissioners Cullum and El Qadah dissented) to REVOKE the subject permit. Four votes being necessary to overturn any departmental action, the motion FAILED, and the subject permit was UPHELD.

ITEM C: 1030-1032 Balboa Street. Letter from Victoria Peterson, requesting that the Board take jurisdiction over Building Permit Application No. 2001/10/09/0242.

Date Permit Issued:	October 9, 2001.
Last Day to Appeal:	October 24, 2001.
Date Jurisdiction Request Received:	October 26, 2001.

(5) **APPEAL NO. 01-108**

ELIAS PAMFILIS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[544 Precita Avenue.
[Appeal of Cease and Desist Order dated [June 13, 2001, that the subject property is [being used for storage of paint, painting [supplies and related equipment in amounts [exceeding residential use, and that [inoperable vehicles and other material being [stored outside have eliminated the required [usable open space on the subject property, [in violation of Sections 171, 202, 209 and [135 of the Planning Code.
[PROGRESS REPORT FROM THE ZONING [ADMINISTRATOR HEARD AUGUST 29, [2001.
[FOR HEARING TODAY.

(6) **APPEAL NO. 01-140**

JODI DAPRANO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[927-933 Greenwich Street.
[Appealing a Notice of Violation dated August [8, 2001, alleging that a commercial use [exists on the ground floor of the subject [property, which is located in an RM-1 zoning [district, in violation of Planning Code Section [209.8, and that historical records show a [pre-existing Non-Conforming Commercial [Use dating back to 1919 that was [abandoned in 1960.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-152**

ADAM WHEELER, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2005 Golden Gate Avenue.
[Appealing a Determination dated August 20, [2001, that the subject building's [identification as a two-unit building can only [be changed to three-units by filing a Building [Permit Application to convert the building [from two to three units, and that this [additional unit would have to meet all [Planning & Building Code requirements.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-153**

JEREMY PAUL, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[531 Kansas Street.
[Protesting issuance on August 22, 2001, to [Alberto Villasenor, Site Permit to Alter a [Building (addition of third floor, remodel of [second floor, horizontal addition to rear and [addition of new deck and exit stairs).
[APPLICATION NO. 2000/08/14/7852S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-145**

MARIO BENASSINI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[740 Vermont Street.
[Protesting issuance on August 10, 2001, to [Joyce Book, Permit to Alter a Building [(remodel first two stories, adding third story, [demolish existing garage on West side and [replace with new one-car garage).
[APPLICATION NO. 2000/10/05/2384S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-148**

EMILY TAN, ADRIENNE LEWIS &
JACQUELINE HAVEMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[14 University Street.
[Protesting issuance on August 13, 2001, to [Mele Lowman, Site Permit to Alter a Building [(rear two-story extension with one new bath, [rebuild existing stair case)
[APPLICATION NO. 2000/12/12/7774S.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-139**

SHELLEY SCHOLNICK & JACK WELCH, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[530 – 41st Avenue.
[Protesting issuance on August 16, 2001, to [Arkady Kitover, Permit to Alter a Building [(remove illegal separate unit, remove all [manifestations of separate tenancy including [stove, and restore lower level rooms to prior [legal use as accessory rooms to single [family residence).
[APPLICATION NO. 2001/08/16/6274.
[FOR HEARING TODAY.

(12) **APPEAL NO. 01-143**

ALLAN & ANNE LERCH, BARRY & MARIE LIPMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[33 Walnut Street.
[Protesting issuance on August 10, 2001, to [Carol Smith and Jack Russo, Site Permit to [Alter a Building (demolition of existing rear [deck and wall on first/second floors to [provide for new rear two-story addition, [interior remodeling of kitchen, addition of [powder room on second floor).
[APPLICATION NO. 2000/05/01/8654S.
[FOR HEARING TODAY.

(13) **APPEAL NO. 01-149**

LISSA JACOBSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[235 Santa Paula Avneue.
[Protesting issuance on August 13, 2001, to [Robert Cram & Marietta Jason, Site Permit [to Alter a Building (level building, reconstruct [foundation, rear extension of first and [second stories, internal remodeling, and dry [rot and termite repair).
[APPLICATION NO. 2000/12/21/8505S.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: November 1, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:30 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 7, 2001

5:30 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Craig Nikitas, Senior Planner, Planning Dept.; Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS:**

SPEAKERS: Judith Boyajian, Deputy City Attorney reported on the outcome of the litigation concerning R.A.M. which was settled and the writ dismissed.

(3) **AMENDMENT TO RULES OF BOARD:**

Public hearing and consideration of amendment to Article I, Section I of the Rules of the Board of Appeals to change time of regular meetings from 5:30 p.m. Wednesdays to 5:00 p.m. Copies of Board Rules available at the Board office.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to ADOPT the subject amendment to the Rules of the Board of Appeals.

SPEAKERS: None.

(4) **MATTERS FOR CONSIDERATION AND OTHER CORRESPONDENCE:**

ITEM A: 751-755 Arguello Boulevard. Letter from Drexel Bradshaw, attorney for Jennifer Smith & Nicole Benton, requesting that the Board take jurisdiction over Building Permit Application No. 2000/02/22/2409. Permit Holder: A. Desta. PUBLIC HEARING HELD & CLOSED ON SEPTEMBER 12, 2001. FOR FURTHER CONSIDERATION TODAY.

Date Permit Issued:	January 31, 2001
Last Day to Appeal:	February 15, 2001
Date Jurisdiction Request Received:	August 15, 2001

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-1 (Commissioner El Qadah dissented) to

SPEAKERS: Gary Brockbank attorney for requestors of jurisdiction reminded the Board that the request had been continued four weeks to allow time for litigation to solve the problems between the parties. He said that the litigation has been postponed, and the landlord has retained a new attorney.

ITEM B: 1196 Hampshire Street. Letter from Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection, and Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-134, Duarte vs. DBI, heard October 3, 2001. Upon motion by Commissioner McInerney, the Board voted 2-3 (Vice President Saunders, Commissioners Cullum and El Qadah dissented) to REVOKE the subject permit. Four votes being necessary to overturn any departmental action, the motion FAILED, and the subject permit was UPHELD.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (commissioner Cullum dissented) to GRANT the rehearing request with the rehearing scheduled for November 28, 2001.

SPEAKERS: Laurence Kornfield, CBI, of DBI, requested a rehearing in order to have Inspector Simms testify about his site visit and conversation with the permit holder which he deemed new evidence that justified a rehearing. Bill Sorenson, a co-owner, said he felt no new evidence was being offered and the action of DBI was selective enforcement against him, since no demolition permits were required for similar projects on other lots.

ITEM C: 1030-1032 Balboa Street. Letter from Victoria Peterson, requesting that the Board take jurisdiction over Building Permit Application No. 2001/10/09/0242.

Date Permit Issued:	October 9, 2001.
Last Day to Appeal:	October 24, 2001.
Date Jurisdiction Request Received:	October 26, 2001.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to CONTINUE the matter to January 16, 2002.

SPEAKERS: Victoria Peterson requestor of jurisdiction said she is a student and has an appointment with an attorney to handle this matter. Saul Ferster, attorney for the permit holders, said the subject unit is illegal and the permit is to remove it. His client can't require rent because it is illegal. This is a third unit in a lawful two-family house. Laurence Kornfield, CBI, DBI, said there is no requirement in the Building Code for notice of issuance for this sort of permit. Judith Boyajian said there is no estoppel here since there is no requirement that notice be given and therefore, there can be no defect to justify estoppel.

(5) **APPEAL NO. 01-108**

ELIAS PAMFILIS, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[544 Precita Avenue.
[Appeal of Cease and Desist Order dated [June 13, 2001, that the subject property is [being used for storage of paint, painting [supplies and related equipment in amounts [exceeding residential use, and that [inoperable vehicles and other material being [stored outside have eliminated the required [usable open space on the subject property, [in violation of Sections 171, 202, 209 and [135 of the Planning Code.
[PROGRESS REPORT FROM THE ZONING [ADMINISTRATOR HEARD AUGUST 29, [2001.
[FOR HEARING TODAY.

ACTION: This matter was WITHDRAWN prior to hearing.

(6) **APPEAL NO. 01-140**

JODI DAPRANO, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[927-933 Greenwich Street.
[Appealing a Notice of Violation dated August
[8, 2001, alleging that a commercial use
[exists on the ground floor of the subject
[property, which is located in an RM-1 zoning
[district, in violation of Planning Code Section
[209.8, and that historical records show a
[pre-existing Non-Conforming Commercial
[Use dating back to 1919 that was
[abandoned in 1960.
[FOR HEARING TODAY.

ACTION: This matter was WITHDRAWN prior to hearing.

(7) **APPEAL NO. 01-152**

ADAM WHEELER, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[2005 Golden Gate Avenue.
[Appealing a Determination dated August 20,
[2001, that the subject building's
[identification as a two-unit building can only
[be changed to three-units by filing a Building
[Permit Application to convert the building
[from two to three units, and that this
[additional unit would have to meet all
[Planning & Building Code requirements.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to OVERRULE the subject determination with FINDING that the subject property is a 3-unit building, and on CONDITION that the subject property meets the Housing Code requirements that were in place at the time of the referenced fire in 1994.

SPEAKERS: SPEAKERS: Jeremy Paul, speaking for the appellant, said that the third unit at issue has always been part of the building and had suffered damage from a fire that the owners want to repair so that the apartment can go back onto the rental market. The problem is that there is a lack of documents to support the permit application to restore the third unit without having to meet the Building and Planning Code requirements, the reason he seeks the approval of the Board. The unit no longer exists in the eyes of the Department. It is impossible for the client to create a new off-street independently accessible parking space, although the garage can hold two cars in tandem now. He said it was never his client's intention to abandon the apartment as a separate third unit. There are no problems approving this permit under the Housing Code. Craig Nikitas, planner, for the ZA, said that a Notice of Special Restrictions is on record limiting use of the basement room to accessory use of the apartment above. The unit could have been rebuilt at the time of the fire but since it has been abandoned since then it now must meet the Codes to be legalized. Laurence Kornfield said he had made a site visit on October 30 and he found that it appears that the unit is legal and has fire damage. He could see where owner has patched a wall but the unit is not habitable yet the unit is still there. Apparently the owner at one time took out a permit to change it from a three-unit to a two-unit building. The Code requirements for a three-unit house, considered to be an apartment house under the Building Code, are far more rigorous than for a one or two-unit building. Now the only way to renovate as a three-unit building is through action by the Board.

MEETING MINUTES, BOARD OF APPEALS, NOVEMBER 7, 2001

(8) **APPEAL NO. 01-153**

JEREMY PAUL, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPART APPROVAL

[531 Kansas Street.
[Protesting issuance on August 22, 2001, to
[Alberto Villasenor, Site Permit to Alter a
[Building (addition of third floor, remodel of
[second floor, horizontal addition to rear and
[addition of new deck and exit stairs).
[APPLICATION NO. 2000/08/14/7852S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: Jeremy Paul, Appellant, said he had not been involved in the DR process but is helping the neighbors who are friends of his and said the permit should be disapproved because the project fails to comply with the residential design guidelines and is not in character with the mid-block. It disrupts the pattern of development and the additional space wanted can be found in the lower floor without any vertical addition necessary. Susan Kelly, attorney for the permit holder, responded that the appellant neither lives nor works near the subject property and won't be affected by the project in any way, nor did he submit any supporting material to support this appeal. With the proposed setback the building will be in character with the existing development and will hardly be visible from the street. PUBLIC COMMENT FOR APPELLANT: Dick Millet of the Potrero Hill Boosters said that the project was bad because it was in the middle of a row of lower houses and will be out of harmony with the present block face. The Code allows such vertical additions if they are set back at least twelve feet. Neighbors lost out at D.R. hearing. PUBLIC COMMENT FOR PERMIT HOLDER: Kenneth Wilson, said that he thought the project does comply with the RDG and it won't affect the air or views of properties downslope at all, and the proposed third floor is set back twelve feet so addition can't be seen from the street. Craig Nikitas for the ZA said that the twelve-foot setback solves most of the problem. The lot has a cross slope and an upslope so designing addition was difficult.

(9) **APPEAL NO. 01-145**

MARIO BENASSINI, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[740 Vermont Street.
[Protesting issuance on August 10, 2001, to
[Joyce Book, Permit to Alter a Building
[(remodel first two stories, adding third story,
[demolish existing garage on West side and
[replace with new one-car garage).
[APPLICATION NO. 2000/10/05/2384S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: Nicola Zunic, son of the appellant, said the proposed addition will cast a shadow on the kitchen window of his family's house next door and his family will be boxed in. Larry Sussman, attorney for the permit holder explained the project as his client's need for a connection between her front building and the rear building where her disabled grandmother is expected to live so his client can care for her. He said his client has made four attempts to reach the appellants to discuss the issues but they have not responded to her. She says the appellant's window is an illegal property line window that creates a fire hazard to her property. She has a petition signed by 32 people in support of her project. The only opposition is from the appellant. Joyce Book, the permit holder explained what she has gone through to get this permit that will enable her to care for her grandmother herself. she has spent $42,000 so far. NO PUBLIC COMMENT FOR APPELLANT. PUBLIC COMMENT FOR PERMIT HOLDER: Dick Millet for Potrero Hill Boosters said his group has no problem with the project and that this is a nice design for a building that needs to be remodeled. Nicole Allan spoke in support of the project. Carol B. Bufla contractor, said all the modifications are being done with the approval of the DBI at the Planning Department, but the appellant's window is in violation to the Building Code.

MEETING MINUTES, BOARD OF APPEALS, NOVEMBER 7, 2001

(10) **APPEAL NO. 01-148**

EMILY TAN, ADRIENNE LEWIS &
JACQUELINE HAVEMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[14 University Street.
[Protesting issuance on August 13, 2001, to
[Mele Lowman, Site Permit to Alter a Building
[(rear two-story extension with one new bath,
[rebuild existing stair case)
[APPLICATION NO. 2000/12/12/7774S.
[FOR HEARING TODAY.

ACTION: This matter was RESCHEDULED to December 12, 2001 prior to hearing.

(11) **APPEAL NO. 01-139**

SHELLEY SCHOLNICK & JACK WELCH, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[530 – 41st Avenue.
[Protesting issuance on August 16, 2001, to
[Arkady Kitover, Permit to Alter a Building
[(remove illegal separate unit, remove all
[manifestations of separate tenancy including
[stove, and restore lower level rooms to prior
[legal use as accessory rooms to single
[family residence).
[APPLICATION NO. 2001/08/16/6274.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to REVOKE the subject permit.

SPEAKERS: Scott Borogosky, attorney for the appellants, said the unit at issue is two rooms behind the garage and that the permit holder evicts her tenants unlawfully so she can rent to new tenants for more rent. She has collected rent from the appellants for years and never told them it is an illegal unit. The appellants are a mother with several small children and a sickly husband. The owner has a seven unit building on Darien Way as well as other property on Monterey Boulevard He said he felt the owner is not dealing in good faith. Nina Kotova, the permit holder, said that she managed the building but didn't own it; it is owned by a professor at SFSU. She said all the work has been done and finalized and that she has a certificate of completion. She said these tenants do not pay rent. She said the building has always been a one-family house and that the appellants live downstairs and another family lives upstairs. She said she can' t refinance with an illegal unit in the building. Elena Kitova, daughter of the owner said that her mother couldn't afford an attorney so she was speaking for her. She said she found four units for comparable rents available in the neighborhood on the Internet. The rent from this unit is needed by her mother to pay the mortgage. Alex Lirisman, the permit holder's architect said he had done the drawings for her. In his opinion this shouldn't be deemed an illegal unit. Laurence Kornfield, CBI, DBI said that this permit had been issued over the counter without Planning review needed for the removal of a dwelling unit. And this unit could be legalized since the zoning permits a two-unit house. NO PUBLIC COMMENT FOR EITHER SIDE.

(12) **APPEAL NO. 01-143**

ALLAN & ANNE LERCH, BARRY & MARIE LIPMAN, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[33 Walnut Street.
[Protesting issuance on August 10, 2001, to [Carol Smith and Jack Russo, Site Permit to [Alter a Building (demolition of existing rear [deck and wall on first/second floors to [provide for new rear two-story addition, [interior remodeling of kitchen, and addition of [powder room on second floor).
[APPLICATION NO. 2000/05/01/8654S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to UPHOLD the subject permit.

SPEAKERS: Alan Lerch a co-appellant, said an agreement was completed and signed and the permit holder's plans are in violation of the agreement. He asked the Board to enforce the agreement. The plans presented here are a clear breach of the agreement between the parties. Barry Lipman, co-appellant, said there are other neighbors who will speak in support but they are not yet present. He said the windows on the plan do not line up. Scott Emblige, attorney for permit holders, said there has been no violation of the Planning Code or the Residential Design Guidelines and he asked the Board to uphold the permit and dismiss the appeal. He said his clients thought the settlement agreement was to be the end of the process after the extensive negotiations that led to it, and the scaling back of the rear of the house. There never had been an intention to remove what exists, however, and the dormer at issue exists today. There is nothing in the agreement that requires the removal of any feature of the house. Carl Smith, the architect for the permit holders said that the plans are consistent with the agreement with the dormer and skylights shown. He said the previous architect Amy Hull had submitted plans and they had nothing to do with the items in question. He said architect Lewis Butler, working for the appellants had told him that he had been instructed by the appellants not to talk to him. Gary Nikitas, planner, substituting for the Zoning Administrator, said the Department review found that the plans meet the agreement's provisions. PUBLIC COMMENT FOR APPELLANTS: Douglas Ford said he lives next door at 15 Walnut Street and he was one of the original DR requestors as well as a signatory of the agreement. He said the side of the building was in contention and he thought the windows on it would be moved. John Harod said the project is adjacent to his back yard and he was the fourth signer of the agreement. He said he was told by Lewis Butler that the project created health and safety issues, and that he doesn't know what to think. What he thought would be removed is now being shifted around. NO PUBLIC COMMENT FOR PERMIT HOLDERS. Judith Boyajian, deputy city attorney in response to a Board question said that normally the Board doesn't enforce private agreements, and doing so is at the Board's discretion.

(13) **APPEAL NO. 01-149**

LISSA JACOBSON, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[235 Santa Paula Avenue.
[Protesting issuance on August 13, 2001, to [Robert Cram & Marietta Jason, Site Permit [to Alter a Building (level building, reconstruct [foundation, rear extension of first and [second stories, internal remodeling, and dry [rot and termite repair).
[APPLICATION NO. 2000/12/21/8505S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to UPHOLD the subject permit.

SPEAKERS: Lissa Jacobson, appellant said that all she asked was for the roof of the rear addition to be flat instead of peaked and that she was speaking for four neighbors. Arnie Lerner, architect for the appellant said she only asks that the shape of roof be changed which wouldn't disturb the owner's program nor reduce the floor area or use of the addition. He said he had helped write the RDG in the 70's and that the revision the appellant requested was appropriate under the Guidelines. A peaked roof is not consistent with the original design of the house.
Robert Cram, the permit holder, said that he felt frustrated and manipulated by the appellant's actions. He received Mr. Lerner's response late and couldn't respond to it. He said that his permit had been issued properly and that the

project adds 800 square feet to his house, not 1500 as she said. He felt her team of architects and lawyers had tried to intimidate him. Craig Nikitas for the Planning Department said that the project is consistent with the RDG. Both the department and the St. Francis Wood Association agreed that the design was a good one. NO PUBLIC COMMENT FOR EITHER SIDE.

There being no further business, President Chin adjourned the meeting at 9:05 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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Attn: Terry Gwiazdowsky

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, NOVEMBER 14, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

4/01

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

NOTE: THE BOARD WILL COME TO ORDER AT 5:00 P.M.

DOCUMENTS DEPT.

NOV 13 2001

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(2) **COMMISSIONERS COMMENTS AND QUESTIONS:**

(3) **REQUESTS FOR REHEARING:**

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ITEM B: 100-122 – 15th Street. Letter from Walter Wong, agent for the appellant/property owner, Larry Wasserman, requesting a rehearing of Appeal No. 01-079, heard June 13, 2001. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin and Commissioner El Qadah dissented) to UPHOLD the subject determination regarding transfer of business service determination from 200 Kansas Street to 100-122 – 15th Street.

(4) **APPEAL NO. 01-156**

HELENE deBAUBIGNY, JIM FISSELL,
PAUL & MARILYN SCHMIDT, & DUANE DANIELSEN,
Appellants

vs.

DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2763 Filbert Street.
[Protesting issuance on August 29, 2001, to
[Lock & Irene Holmes, Site Permit to Alter a
[Building (remodel master bathroom,
[bedroom and closet; rebuild existing stairs;
[reconfigure roof; redo front façade; add
[fireplace; add back ban at front and side).
[APPLICATION NO. 2000/05/23/0798S.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-123**

LINDA LEW, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): HO TRUST
& ALIOTO FAMILY TRUST

[835 Lombard Street.
[Appealing denial on July 10, 2001, of Site [Permit to Alter a Building (construct one [additional room on fourth floor with bath; [remove gable roof at rear of building to [create a flat roof with deck)
[APPLICATION NO. 2000/07/13/5089S.
[FOR HEARING TODAY.

(6) **APPEAL NO. 01-138**

2836 WASHINGTON STREET, LLC, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): None.

[2836 Washington Street.
[Appealing denial on August 16, 2001, of [Site Permit to Alter a Building (revise plans [under Building Permit Application No. [9903501 in order to retain pre-existing walls [to serve as a parapet for the roof).
[APPLICATION NO. 2001/05/11/8354S.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-128**

WESLEY STERMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: THOMAS & LINDA ROMARY

[2935 Pacific Avenue.
[Appealing denial on August 2, 2001, of [Permit to Alter a Building (convert existing [three-unit building to two-units, add fourth [floor of living space, relocate garage to [basement, & substantially remodel all [floors).
[APPLICATION NO. 2000/12/21/8481.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: November 8, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmen illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discus meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francis Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For m information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 14, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

NOTE: THE BOARD CAME TO ORDER AT 5:00 P.M. UNDER RECENTLY AMENDED RULE.

(2) **COMMISSIONERS COMMENTS AND QUESTIONS: Commissioner** McInerney reported that the proposed Charter Amendment legislation to change the process for appointment of the Board will go to the full Board of Supervisors on November 10, 2001 for enactment. Judith Boyajian advised the Board that it cannot lobby for or against such a Charter Amendment, but that she will research whether Commissioners can submit arguments for the voters' pamphlet in their capacity as private citizens or as Commissioners.

(3) **REQUESTS FOR REHEARING:**

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to Nov. 28, 2001.

ITEM B: 100-122 – 15th Street. Letter from Walter Wong, agent for the appellant/property owner, Larry Wasserman, requesting a rehearing of Appeal No. 01-079, heard June 13, 2001. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin and Commissioner El Qadah dissented) to UPHOLD the subject determination regarding transfer of business service determination from 200 Kansas Street to 100-122 – 15th Street.

ACTION: Upon motion by Commissioner Cullum, the Board voted 2-3 (President Chin, Vice President Saunders, and Commissioner El Qadah dissented) to deny the rehearing request. Four votes being necessary to grant a rehearing request, the motion passed, and the rehearing request was denied.

SPEAKERS: Alice Barkley, attorney for Walter Wong, agent for owners, requested that the Board grant a rehearing in the case because the appellant was not represented by counsel at the hearing and this case presents complex legal issues for which a lawyer is needed. The agent of the owner is not an attorney. Larry Badiner, ZA, said that a rehearing is not justified since the appellant had an opportunity to have counsel and didn't and his agent is an extremely experienced permit consultant capable of handling such a case. He said this was not a case of a non-conforming use since the use was never established lawfully at the subject property with new legislation changing permanent use after it was lawfully established. A determination can't be moved from one property to another with a tenant. And the case has nothing to do with Interim Mission District Controls.

(4) **APPEAL NO. 01-156**

HELENE deBAUBIGNY, JIM FISSELL, PAUL & MARILYN SCHMIDT, & DUANE DANIELSEN, Appellants
vs.
DEPARTMENT OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2763 Filbert Street.
[Protesting issuance on August 29, 2001, to [Lock & Irene Holmes, Site Permit to Alter a [Building (remodel master bathroom, [bedroom and closet; rebuild existing stairs; [reconfigure roof; redo front façade; add [fireplace; add back ban at front and side).
[APPLICATION NO. 2000/05/23/0798S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Andre deBaubigny, co-appellant, said the plans are not properly dimensioned and the project is not in character with the neighborhood. Helene deBaubigny said the plans approved are inadequate and there are no proper elevations and the project will obstruct her view of the area. Duane Danielsen, co-appellant said that his main concern is the height of the roof and that planners advised him not to request DR because it would lose and that no variance is required for the project. He said that a variance should have been required but the planner who reviewed the plans missed it and the neighbors were not notified. Irene Holmes, permit holder, said that she had five letters of support from her neighbors and that the main objection from the protestors was the reconfigured roof which is necessary because of the leaking problem with the present roof. The proposed peaked roof will shed water. Dan Phipps, architect for the permit holders said the proposed alteration meets the Codes. He said a tree blocks most of the appellant's view already and proposal doesn't have significant inpact, reminding the Board that views are not protected under the Codes. There will be more view after the tree is trimmed. Larry Badiner, ZA, said that the matter was reviewed by staff after Section 311 Notice was sent out and no additional notice was required for changes since project became smaller. He said he had reissued his letter and it was not appealed and it is too late now to appeal it. Laurence Kornfield said the project meets the minimum standards of the Building Code, and the plans are scalable though not dimensioned.

NO PUBLIC COMMENT FOR EITHER SIDE.

(5) **APPEAL NO. 01-123**

LINDA LEW, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): HO TRUST & ALIOTO FAMILY TRUST

[835 Lombard Street.
[Appealing denial on July 10, 2001, of Site [Permit to Alter a Building (construct one [additional room on fourth floor with bath; [remove gable roof at rear of building to [create a flat roof with deck)
[APPLICATION NO. 2000/07/13/5089S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to uphold the denial of the subject permit by the Planning Commission.

SPEAKERS: Larry Badiner, ZA, said the Commission found the mass of the project too great and the project fails to meet the Residential Design Guidelines, and causes loss of light and air to its neighbors. Jerry Klein, consultant to appellant, said that he hates neighborhood fights and that this project complies with the Code provisions. He said the Planning Commission denied the application because it ran out of patience with the arguing parties. His client has compromised again and again to no avail with the addition being reduced from 500 square feet to 300. Betty Ho, daughter of Section 14 principals gave an historical perspective of the case and said that the subject lot was already over developed and that the applicant was a single woman for whom the addition was not needed, while it would destroy light and air to her parents' building next door.

PUBLIC COMMENT FOR COMMISSION: Adam Ng said that twenty-two neighbors have signed the petition opposing the project and that he too opposed it. Laurence Kornfield, CBI, DBI, said that the permit had never been to DBI for review since it was denied by Planning first. If it had been several changes would have been required. Rick Seher, agent for the Section 14 principals said that they had gotten no cooperation at all from the applicant.

NO PUBLIC COMMENT FOR APPELLANT

(6) **APPEAL NO. 01-138**

2836 WASHINGTON STREET, LLC, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): None.

[2836 Washington Street.
[Appealing denial on August 16, 2001, of [Site Permit to Alter a Building (revise plans [under Building Permit Application No. [9903501 in order to retain pre-existing walls [to serve as a parapet for the roof).
[APPLICATION NO. 2001/05/11/8354S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to close the public hearing and continue the matter to Dec. 5, 2001 for a site visit by DBI and Board members.

SPEAKERS: Larry Badiner, ZA, said No, No, No, and that the Commission had said no twice. He said the serial permits were a real problem. Rene Peinado, agent for appellant, said that the parapets exist and should be allowed to remain. Bob Livermore, SFFD (ret) explained the importance of parapets to fire fighters. Laurence Kornfield, CBI, DBI, explained the Building Code parapet requirements that in-lieu fire rated roofs made them unnecessary.

PUBLIC COMMENT FOR ZONING ADMINISTRATOR: Ian Berke of the PHRA said that the Planning Commission said the developer is untruthful and that no one has had more stop work orders from DBI than the developer... whose plans are incorrect and incomplete: The last time this project was before the Board, the Board required that a new application be made for the whole project and that the façade be revised. He asked that the Board uphold the Department. Alex Seidel, an abutting neighbor said the parapets are being built and are too deep into the lot.

NO PUBLIC COMMENT FOR APPELLANT

(7) **APPEAL NO. 01-128**

WESLEY STERMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: THOMAS & LINDA ROMARY

[2935 Pacific Avenue.
[Appealing denial on August 2, 2001, of [Permit to Alter a Building (convert existing [three-unit building to two-units, add fourth [floor of living space, relocate garage to [basement, & substantially remodel all [floors).
[APPLICATION NO. 2000/12/21/8481.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to November 28, 2001.

SPEAKERS: NONE

MEETING MINUTES, BOARD OF APPEALS, NOVEMBER 14, 2001

There being no further business, President Chin adjourned the meeting at 8:18 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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S.F. Public Library
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Attn: Terry Gwiazdowsky

DOCUMENTS DEPT.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, NOVEMBER 28, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **CHANGES TO BRIEFING SCHEDULE & LIMITING EXHIBITS:**

Discussion of present Rules of Board regarding briefing schedule, exhibits/attachments to submittals and related matters for consideration of calendaring for amendment at a future meeting.

(4) **ADDENDUM ITEMS:**

ITEM A: 1111-1113 Green Street. Letter from George Hoffberg, Determination Holder, requesting rehearing of Appeal 01-130, Tudor Hill vs. ZA, heard October 24, 2001. Upon motion by President Chin, the Board voted 4-1 (Commissioner McInerney dissented) to OVERRULE the subject determination that the proposal to convert a storage room on lowest level to bedroom use connected to unit above is permitted. Appellant: Tudor Hill Tenants Association.

ITEM B: Letter from Raymundo Medrano, Jr., requesting that the Board take jurisdiction over the Police Dept. revocation of tow truck driver permit no. 1240.

Date of decision:	October 12, 2001
Last day to appeal:	October 27, 2001
Request for jurisdiction received:	November 5, 2001

ITEM C: Letter from Domingo Falho, requesting that the Board take jurisdiction over the Taxicab Commission revocation of driver of public passenger vehicle permit no. 51864.

Date of decision:	October 24, 2001
Last day to appeal:	November 8, 2001
Request for jurisdiction received:	November 13, 2001

ITEM D: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI, PDA & Kuhn vs. DBI, PDA, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ITEMS (5A) & (5B) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April 24,
[2001, addressed to Randy Shaw of the Tenderloin
[Housing Clinic, that the previous tourist hotel use
[the Empress Hotel, located in the North of Mar
[Special Use District No.1 was a non-conforming use
[under Planning Code Section 180, that the tourist
[hotel use has been discontinued for a continuous
[period of at least three years and tourist hotel use
[may not be re-established except in compliance with
[present requirements of City Codes as applicable.
[PUBLIC HEARING HELD & CLOSED OCTOBER
[24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(5B) **APPEAL NO. 01-082**

EMPRESS LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April 24,
[2001, addressed to Randy Shaw of the Tenderloin
[Housing Clinic, that the previous tourist hotel use,
[the Empress Hotel, located in the North of Market
[Special Use District No.1 was a non-conforming use
[under Planning Code Section 180, that the tourist
[hotel use has been discontinued for a continuous
[period of at least three years and tourist hotel use
[may not be re-established except in compliance with
[present requirements of City Codes as applicable
[PUBLIC HEARING HELD & CLOSED OCTOBER
[24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-166**

JEAN DeNOYER, dba "LE COLONIAL (SF) RESTAURANT, LLC," Appellant
vs.
POLICE DEPARTMENT, Respondent

[20 Cosmo Place.
[Appealing the denial on September 13, 2001, of [Dance Hall Keeper and Place of Entertainment [permits.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-159**

EDMUND JUNG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on September 4, 2001, of [taxicab medallion no. 842.
[RESOLUTION NO. 2001-53.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-157**

BRAD & BARBARA ANDERSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

[2158-2160 Filbert Street.
[Appealing denial on September 12, 2001, of Site [Permit to Alter a Building (merge two units into [one).
[APPLICATION NO. 2001/02/15/2255S.
[FOR HEARING TODAY.

§ 14 Principal(s): None.

(9) **APPEAL NO. 01-160**

ALI MOZAFFARI, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1177 California Street, Unit #1821.
[Appealing a Letter of Determination dated August [30, 2001, that the proposed 80sf horizontal addition [(sun room) to the subject condominium unit on the [17th Floor of the building is not permitted in the RM-[4 (Residential Mixed High-Density) zoning [district.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-128**

WESLEY STERMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: THOMAS & LINDA ROMARY

[2935 Pacific Avenue.
[Appealing denial on August 2, 2001, of Permit to [Alter a Building (convert existing three-unit building [to two-units, add fourth floor of living space, [relocate garage to basement, & substantially [remodel all floors).
[APPLICATION NO. 2000/12/21/8481.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8, [2001, alleging that the subject property at 951-957 [Mission Street is being used for business or [professional offices that do not provide on-site [services to the general public with out benefit of [Conditional Use (CU) authorization from the [Planning Commission, in violation of Planning [Code Section 219(d).
[FOR HEARING TODAY.

ADJOURNMENT

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: November 20, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisco Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES- WEDNESDAY, NOVEMBER 28, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

ABSENT: Commissioner Carole Cullum.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

(2) **COMMISSIONERS' COMMENTS & QUESTIONS:** Commissioner McInerney said he liked the recent Ken Garcia column about the Supervisors' ballot measure to amend the Charter provision regarding appointment of Commissioners to the Planning Commission and the Board of Appeals. Judith Boyajian said the Board could not as a body submit a ballot argument but individual Commissioners identifying themselves as members of the Board can submit ballot arguments. President Chin explained his views opposing the measure; that it appears to be a political vendetta and the Supervisors should work on the Master Plan. Commissioners Saunders and El Qadah agreed with their colleagues.

(3) **CHANGES TO BRIEFING SCHEDULE & LIMITING EXHIBITS:**

Discussion of present Rules of Board regarding briefing schedule, exhibits/attachments to submittals and related matters for consideration of calendaring for amendment at a future meeting.

SPEAKERS: None.

(4) **ADDENDUM ITEMS:**

ITEM A: 1111-1113 Green Street. Letter from George Hoffberg, Determination Holder, requesting rehearing of Appeal 01-130, Tudor Hill vs. ZA, heard October 24, 2001. Upon motion by President Chin, the Board voted 4-1 (Commissioner McInerney dissented) to OVERRULE the subject determination that the proposal to convert a storage room on lowest level to bedroom use connected to unit above is permitted. Appellant: Tudor Hill Tenants Association.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1(Commissioner Cullum absent) to deny the request for rehearing.

SPEAKERS: George Hoffberg, requestor and owner, said he doesn't know who the Tudor Hill Tenants are and asked the Board to allow him another hearing because he needs the subject space for tenant storage and there is no eviction involved with the appeal. Larry Badiner, ZA, said that he opposed the granting of a rehearing since no new evidence is proposed so it is not justified. Paul Carlstrom of the Tudor Hill Tenants said he supports the ZA and agreed that no new evidence is being offered that would support the granting of a rehearing.

ITEM B: Letter from Raymundo Medrano, Jr., requesting that the Board take jurisdiction over the Police Dept. revocation of tow truck driver permit no. 1240.

Date of decision:	October 12, 2001
Last day to appeal:	October 27, 2001
Request for jurisdiction received:	November 5, 2001

ACTION: Upon motion by president Chin, the Board voted 4-0-1(Commissioner Cullum absent) to grant the request for jurisdiction.

SPEAKERS: Requestor was present but did not speak. No appearance by department.

ITEM C: Letter from Domingo Falho, requesting that the Board take jurisdiction over the Taxi Commission revocation of driver of public passenger vehicle permit no. 51864.

Date of decision:	October 24, 2001
Last day to appeal:	November 8, 2001
Request for jurisdiction received:	November 13, 2001

ACTION: Upon motion by president Chin, the Board voted 4-0-1(Commissioner Cullum absent) to grant the request for jurisdiction.

SPEAKERS: Requestor was present but did not speak. No appearance by department.

MEETING MINUTES, BOARD OF APPEALS, NOVEMBER 28, 2001

ITEM D: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI, PDA & Kuhn vs. DBI, PDA, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ACTION: This matter was rescheduled to December 12, 2001 at the hearing with the consent of all parties, who were not present.

ITEMS (5A) & (5B) WERE HEARD TOGETHER:

(5A) **APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April 24, [2001, addressed to Randy Shaw of the Tenderloin [Housing Clinic, that the previous tourist hotel use, [the Empress Hotel, located in the North of Market [Special Use District No.1 was a non-conforming use [under Planning Code Section 180, that the tourist [hotel use has been discontinued for a continuous [period of at least three years and tourist hotel use [may not be re-established except in compliance with [present requirements of City Codes as applicable.
[PUBLIC HEARING HELD & CLOSED OCTOBER [24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(5B) **APPEAL NO. 01-082**

EMPRESS LLC, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April 24, [2001, addressed to Randy Shaw of the Tenderloin [Housing Clinic, that the previous tourist hotel use, [the Empress Hotel, located in the North of Market [Special Use District No.1 was a non-conforming use [under Planning Code Section 180, that the tourist [hotel use has been discontinued for a continuous [period of at least three years and tourist hotel use [may not be re-established except in compliance with [present requirements of City Codes as applicable.
[PUBLIC HEARING HELD & CLOSED OCTOBER [24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1(Commissioner Cullum absent) to reschedule the matters to Dec. 12, 2001.

SPEAKERS: None

(6) **APPEAL NO. 01-166**

JEAN DeNOYER, dba "LE COLONIAL (SF) RESTAURANT, LLC," Appellant
vs.
POLICE DEPARTMENT, Respondent

[20 Cosmo Place.
[Appealing the denial on September 13, 2001, of [Dance Hall Keeper and Place of Entertainment [permits.
[FOR HEARING TODAY.

ACTION: This matter was withdrawn prior to hearing.

(7) **APPEAL NO. 01-159**

EDMUND JUNG, Appellant
vs.
TAXI COMMISSION, Respondent

[Appealing the revocation on September 4, 2001, of [taxicab medallion no. 842.
[RESOLUTION NO. 2001-53.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1(Commissioner Cullum absent) to reschedule the matter to January 30, 2001.

SPEAKERS: Paul Zarefsky, Deputy City Attorney representing the Taxi Commission, said that he opposes a rescheduling of the appeal because the revocation is stayed and the appellant represents a serious safety issue if he continues to drive. He asked the Board to reschedule to the earliest possible day if it must be rescheduled. Judith Boyajian, Deputy City Attorney, said that the missing Commissioner could not participate in the hearing from her home by speakerphone. It would violate the Brown Act. John Prentice, attorney for the appellant, asked that the appeal hearing be rescheduled to a day when all five Commissioners are seated. Dr. Norman Shapiro speaking on behalf of the appellant said that the appellant does not constitute a danger to public safety and is capable of driving a cab.

T

(8) **APPEAL NO. 01-157**

BRAD &
BARBARA ANDERSON, Appellants
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

[2158-2160 Filbert Street.
[Appealing denial on September 12, 2001, of Site [Permit to Alter a Building (merge two units into [one).
[APPLICATION NO. 2001/02/15/2255S.
[FOR HEARING TODAY.

§ 14 Principal(s): None.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1(Commissioner Cullum absent) to overrule the Planning Commission and grant the subject permit.

SPEAKERS: Larry Badiner, ZA, said that it has been the Planning Commission's policy for about one year to consider five criteria in cases of dwelling unit mergers, with many hearings on this issue. It is concerned about mergers because they may affect the supply of rental housing in the

City. Also the density of surrounding properties is a criterion, as well as design deficiencies and landmark issues. It is necessary to preserve the historical character of residential areas such as Cow Hollow. Another criterion is whether the proposed merger is to allow owner occupancy. Here there is no displacement and this is by no means affordable housing, the loss of high-end apartments may affect the overall housing stock including moderate and low income. Andrew Zacks, attorney for the appellants, said he is gratified that the Board seems to be aware of the issues here presented. He said this merger is to create family housing for the appellants, a young growing family who bought the building before the Commission's merger policies were adopted. At that time the vacancy rate in the City was very low but now times have changed and the vacancy rate is rising. Barbara Anderson, co-appellant, said that her family now occupies the upper unit and doesn't rent the lower unit.

NO PUBLIC COMMENT FOR EITHER SIDE; though three people in the audience raised their hands when Board asked who were there for the appellants.

(9) **APPEAL NO. 01-160**

ALI MOZAFFARI, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[1177 California Street, Unit #1821.
[Appealing a Letter of Determination dated August [30, 2001, that the proposed 80sf horizontal addition [(sun room) to the subject condominium unit on the [17th Floor of the building is not permitted in the RM-[4 (Residential Mixed High-Density) zoning [district.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1(Commissioner Cullum absent) to overrule the subject determination and to allow for approval of the proposal.

SPEAKERS: Larry Badiner, ZA, described the project and how it fails to meet Planning Code standards regarding the expansion of non-conforming structures. Bill Mayer, architect for the appellant explained the project on the 17th floor of the apartment house and how the client has the approval of the condo homeowners association if he can obtain a permit from the City. He said the project is de minimus and will have no effect on any other occupant of the building as the space created will be for the exclusive use of his client and that no open space will be blocked.

NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 01-128**

WESLEY STERMAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: THOMAS & LINDA ROMARY

[2935 Pacific Avenue.
[Appealing denial on August 2, 2001, of Permit to [Alter a Building (convert existing three-unit building [to two-units, add fourth floor of living space, [relocate garage to basement, & substantially [remodel all floors).
[APPLICATION NO. 2000/12/21/8481.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1(Commissioner Cullum absent) to

overrule the Planning Commission and grant the permit based on revised plans as mentioned during the hearing.

SPEAKERS: Larry Badiner, ZA, said that the project has been substantially modified since the D.R. hearing and now the project will result in the elimination of only one unit, and the two remaining units will be more livable, which is much different from what the Planning Commission saw. He said the architect has been cooperative and skillful and the proposal now meets two of the criteria needed for a merger to be granted. David Cincotta, attorney for the appellants, briefly explained the project and how it meets several of the Commission's criteria and is necessary for his clients' family needs, and the three units were never legal. John Peterson, architect for the appellants offered to answer design questions for the Commissioners.

NO PUBLIC COMMENT FOR EITHER SIDE.

(11) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8, [2001, alleging that the subject property at 951-957 [Mission Street is being used for business or [professional offices that do not provide on-site [services to the general public with out benefit of [Conditional Use (CU) authorization from the [Planning Commission, in violation of Planning [Code Section 219(d).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1(Commissioner Cullum absent) to recuse Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 3-0-2 (Commissioner Cullum absent, Commissioner McInerney recused) to reschedule the matter to Dec. 12, 2001.

SPEAKERS: Larry Badiner, ZA, said he agreed to a rescheduling of the hearing since a conditional use application which appears to need more information before it may be deemed perfected won't be scheduled before the Planning Commission for several months. David Silverman, representing the appellant, asked for a brief delay and understood that there is only a four member Board on December 5th and December 12th would be okay. Approximately thirty people raised their hands when President Chin asked how many in the audience support the Zoning Administrator. Gen Fujioka, of the Asian Law Caucus representing those in support of the ZA, said he agreed to a rescheduling to December 12, 2001 and his clients are prepared to attend the hearing on the new date.

NO PUBLIC COMMENT FOR EITHER SIDE.

There being no further business, President Chin adjourned the meeting at 7:22 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, DECEMBER 5, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: Letter from Allan Lerch, co-appellant, requesting rehearing of Appeal 01-143, Lerch & Lipman vs. DBI, PDA, heard November 7, 2001. Upon motion by Commissioner Cullum, the Board voted 5-0 to UPHOLD the subject permit. Permit Holder(s): Carol Smith & Jack Russo.

ITEM B: Letter from Carl Maletic, architect for appellant Mario Benassini, requesting rehearing of Appeal 01-145, Benassini vs. DBI, PDA, heard November 7, 2001. Upon motion by President Chin, the Board voted 5-0 to UPHOLD the subject permit. Permit Holder(s): Joyce Book.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 01-167**

SCOTT BASSIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1391-1393 – 39th Avenue.
[Appeal for refund of penalty imposed
[September 26, 2001 for work done without a
[permit.
[APPLICATION NO. 2001/04/26/7771S.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 01-169**

JANICE GUAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1000 Bowdoin Street.
[Appeal for refund of penalty imposed on [September 27, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/27/9346.
[FOR HEARING TODAY.

(4C) **APPEAL NO. 01-174**

KINUKO JORGENSEN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[3530 22nd Street.
[Appeal for refund of penalty imposed on [October 3, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/24/9063.
[FOR HEARING TODAY.

(4D) **APPEAL NO. 01-176**

VERONICA DAQUIOAG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[254 Niagara Avenue.
[Appealing imposition of penalty on October 9, [2001, for work done without a permit.
[APPLICATION NO. 2001/08/09/5697.
[FOR HEARING TODAY.

(4E) **APPEAL NO. 01-178**

JOHN O'MALLEY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1274 Hampshire Street,.
[Appeal for refund of penalty imposed on [October 11, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/26/9241.
[FOR HEARING TODAY.

(4F) **APPEAL NO. 01-219**

JACKIE TOM, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[350 Scott Street.
[Appealing imposition of penalty on November [20, 2001, for work done without a permit.
[APPLICATION NO. 2001/01/26/0684.
[FOR HEARING TODAY.

5) **APPEAL NO. 01-138**

2836 WASHINGTON ST., LLC, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): None.

[2836 Washington Street.
[Appealing denial on August 16, 2001, of Site [Permit to Alter a Building (revise plans under [Building Permit Application No. 9903501 in [order to retain pre-existing walls [to serve as a [parapet for the roof).
[APPLICATION NO. 2001/05/11/8354S.
[PUBLIC HEARING HELD & CLOSED [NOVEMBER 14, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-168**

QUINCY YU, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[2138 – 16th Avenue.
[Appealing denial on May 19, 2001, of permit [to remove and replace one tree.
[ORDER NO. 172,915.
[JURISDICTION GRANTED SEPT. 12, 2001.
[FOR HEARING TODAY.

7) **APPEAL NO. 01-163**

BEATRIZ RIVAS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1762 La Salle Avenue.
[Protesting issuance on September 6, 2001, to [Ricardo Orellana, Permit to Alter a Building [(remove illegal kitchen and bath in basement [unit, cap utilities at source, remove non-load [bearing partition walls of bedroom and [closets).
[APPLICATION NO. 2001/09/06/7754.
[FOR HEARING TODAY.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 01-164**

DEMAS YAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[547 – 23rd Avenue.
[Appealing a determination by the Director of [the Dept. of Building Inspection, dated [September 19, 2001, that the work performed [on the subject property at 547 – 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the site [permit (horizontal addition) is hereby revoked.
[APPLICATION NO. 9814760S
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-165**

DEMAS YAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[547 – 23rd Avenue.
[Appealing a determination by the Director of [the Dept. of Building Inspection, dated [September 19, 2001, that the work performed [on the subject property at 547 – 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the [permit (revisions to BPA 9814760S, garage [addition in front of existing house, shoring of [garage) is hereby revoked.
[APPLICATION NO. 2000/09/06/9833.
[FOR HEARING TODAY.

(9) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.
[Appealing denial of Rear Yard Variance (third [floor addition of an existing legal non-[complying dwelling structure located in the [required rear yard)
[VARIANCE CASE NO. 2001.0615V
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-129**

J.M. JOHNSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4465-4467 – 24th Street.
[Appealing determination dated July 19, 2001, [that there is no basis for granting legal non-[conforming status to the illegal third unit on [the subject property, and that if a zoning [reclassification is granted by the Planning [Commission and the Board of Supervisors, a [parking variance would be required for the [illegal third unit, as well as compliance with all [relevant provisions of City Codes.
[FOR HEARING TODAY.

EMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 01-190**

INDIA BASIN NEIGHBORHOOD ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[800 Innes Avenue.
[Protesting issuance on October 12, 2001, to [Doherty Painting, Permit to Demolish a [Building (two-story building, 24 feet in height, [with 4500sf of ground floor area).
[APPLICATION NO. 9910163.
[FOR HEARING TODAY.

(11B) **APPEAL NO. 01-191**

INDIA BASIN NEIGHBORHOOD ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[800 Innes Avenue.
[Protesting issuance on October 12, [2001, to Doherty Painting, Site Permit to [Erect a Building (four-story [residential/commercial building, 40 feet [in height, with 5100sf of ground floor [area).
[APPLICATION NO. 9910162S.
[FOR HEARING TODAY.

(12) **APPEAL NO. 01-171**

ROWENA WU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: None.

[1750 Folsom Street.
[Appealing denial on September 26, 2001, of Site [Permit to Erect a Building (three-story, forty-foot [building, catering/restaurant use, with 7,300sf of [ground floor area).
[APPLICATION NO. 2001/01/04/9224S.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: November 29, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environment illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discu meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action that they may be required by the San Francisc Lobbyist Ordinance (S.F. Administrative Code 16.520-16.534) to register and report lobbying activity. For m information about the Lobbyist Ordinance, please contact the Ethics Commission, telephone (415) 554-9510, website www.ci.sf.ca.us/ethics, fax (415) 703-0121.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, DECEMBER 5, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: Commissioner McInerney said he expected the Board to vote on specific Rules amendments separately. President Chin asked the deputy city attorney to advise the Board on whether the Rules can be amended to delete the court reporter requirement.

(3) **ADDENDUM ITEMS:**

ITEM A: Letter from Allan Lerch, co-appellant, requesting rehearing of Appeal 01-143, Lerch & Lipman vs. DBI, PDA, heard November 7, 2001. Upon motion by Commissioner Cullum, the Board voted 5-0 to UPHOLD the subject permit. Permit Holder(s): Carol Smith & Jack Russo.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to deny the request for rehearing.

SPEAKERS: Alan Lerch, co-appellant, requested the Board to grant a rehearing for the reason there are no amended plans for the project. Scott Emblige, attorney for the permit holder, said that he felt there was no new evidence being offered and so no new hearing is justified. Judith Boyajian responded to a Board question by saying that the Board doesn't enforce private agreements.

ITEM B: Letter from Carl Maletic, architect for appellant Mario Benassini, requesting rehearing of Appeal 01-145, Benassini vs. DBI, PDA, heard November 7, 2001. Upon motion by President Chin, the Board voted 5-0 to UPHOLD the subject permit. Permit Holder(s): Joyce Book.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to deny the request for rehearing.

SPEAKERS: Carl Maletic, consultant to the appellant, said that there was evidence not considered at the hearing and that there hadn't been proper notice to owners within 300 feet of the subject property, all of which justifies a rehearing. He also discussed a 1983 ordinance (?) decided by the former Zoning Administrator. Lawrence Sussman, attorney for the permit holder, responded that all issues raised by Mr. Maletic were discussed at the original hearing by the Board, and with no new evidence to be presented he asked that a rehearing not be granted. Laurence Kornfield, CBI, DBI said that he had reviewed the plans at the original hearing and found no fire safety problems. Larry Badiner, ZA, said he had reviewed the plans and that no new notice was required since the height of the façade went from 38.5 feet down to 32 feet. He said all issues had been before the Board at the original hearing.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 01-167**

SCOTT BASSIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1391-1393 – 39th Avenue.
[Appeal for refund of penalty imposed [September 26, 2001 for work done without a [permit.
[APPLICATION NO. 2001/04/26/7771S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to reduce the subject penalty to $204.

SPEAKERS: Scott Bassin, appellant, said the roofer hadn't filled out the permit application properly. Laurence Kornfield, CBI, DBI, said that the permit is to legalize the skylight and deck and any knowledgeable professional would know that you can't do that with a roofing permit. The only issue is the fee based on the Swift Guide. He thought the penalty should be $204.00.

(4B) **APPEAL NO. 01-169**

JANICE GUAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1000 Bowdoin Street.
[Appeal for refund of penalty imposed on [September 27, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/27/9346.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to uphold the subject penalty.

SPEAKERS: No appearances.

MEETING MINUTES, BOARD OF APPEALS, DECEMBER 5, 2001

(4C) **APPEAL NO. 01-174**

KINUKO JORGENSEN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[3530 22nd Street.
[Appeal for refund of penalty imposed on [October 3, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/24/9063.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 4-0-1 (Commissioner Cullum absent) to reduce the subject penalty to two (2) times the regular fee.

SPEAKERS: Thomas Bussard, contractor for the appellant, said that it is not customary in the appellant's culture to give wrong information and she is unemployed and just trying to remodel her kitchen. Laurence Kornfield, CBI, DBI, said that this case is in the lower range and he would check the matter and reduce the penalty accordingly.

(4D) **APPEAL NO. 01-176**

VERONICA DAQUIOAG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[254 Niagara Avenue.
[Appealing imposition of penalty on October 9, [2001, for work done without a permit.
[APPLICATION NO. 2001/08/09/5697.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 4-0-1 (Commissioner Cullum absent) to reduce the subject penalty to two (2) times the regular fee.

SPEAKERS: Appellant was present but did not speak.

(4E) **APPEAL NO. 01-178**

JOHN O'MALLEY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1274 Hampshire Street..
[Appeal for refund of penalty imposed on [October 11, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/26/9241.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to reduce the subject penalty to three (3) times the regular fee.

SPEAKERS: John O'Malley, appellant, said he did the work himself. The tenant has moved out and the unit is now empty. Laurence Kornfield, CBI, DBI, said that the amount shown included the fees for other permits, plumbing and electrical. He thought the penalty should be upheld because the owner had charged rent.

MEETING MINUTES, BOARD OF APPEALS, DECEMBER 5, 2001

(4F) **APPEAL NO. 01-219**

JACKIE TOM, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[350 Scott Street.
[Appealing imposition of penalty on November
[20, 2001, for work done without a permit.
[APPLICATION NO. 2001/01/26/0684.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to reduce the subject penalty to two (2) times the regular fee.

SPEAKERS: Jackie Tom, appellant, said the deck had dry rot and was originally to be repaired. She had been told conflicting things when she called the City. While she does own other property, this was the first time she did work that needed a permit. Laurence Kornfield, CBI, DBI, said that a permit was never issued for this work.

(5) **APPEAL NO. 01-138**

2836 WASHINGTON ST., LLC, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): None.

[2836 Washington Street.
[Appealing denial on August 16, 2001, of Site
[Permit to Alter a Building (revise plans under
[Building Permit Application No. 9903501 in
[order to retain pre-existing walls [to serve as a
[parapet for the roof).
[APPLICATION NO. 2001/05/11/8354S.
[PUBLIC HEARING HELD & CLOSED
[NOVEMBER 14, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to overrule the subject denial by the Planning Commission, and grant the permit on condition that the subject doors be removed and replaced with windows, and with a Notice of Special Restrictions (NSR) to be recorded on the property prohibiting the use of the two roofs as decks, with said NSR to be adopted on Dec. 12, 2001.

SPEAKERS: Laurence Kornfield, CBI,DBI, reported on the site visit he and others made to check the age of the parapet on the rear decks. He thought the decks had been created by lowering the roof. The so-called parapets are in fact not parapets and are not fire rated. And there are other issues. Larry Badiner, ZA, said the surface of the so-called decks is a material meant for walking upon, indicating an intention to use these two roofs as decks in violation of the Commissioners' decision. The doors opening onto the roofs also indicate an intention to use them as decks. The doors should be windows. The surfaces are not standard roofing material. He urged the Board to uphold the Commission's denial of the permit. He thought an NSR not enough to prevent use as decks.

Rene Peinado, appellant, said the doors had been shown on the approved plans which had been thoroughly scrutinized by the Planning staff. He said he wants to retain what exists and record a NSR to govern the use of the space.

(6) **APPEAL NO. 01-168**

QUINCY YU, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[2138 – 16th Avenue.
[Appealing denial on May 19, 2001, of permit [to remove and replace one tree.
[ORDER NO. 172,915.
[JURISDICTION GRANTED SEPT. 12, 2001.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to reschedule the matter to January 16, 2002.

SPEAKERS: None.

(7) **APPEAL NO. 01-163**

BEATRIZ RIVAS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1762 La Salle Avenue.
[Protesting issuance on September 6, 2001, to [Ricardo Orellana, Permit to Alter a Building [(remove illegal kitchen and bath in basement [unit, cap utilities at source, remove non-load [bearing partition walls of bedroom and [closets).
[APPLICATION NO. 2001/09/06/7754.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to reschedule the matter to December 12, 2001, and for the Dept. of Building Inspection to investigate any life/safety issues at the subject property, and for the case to be item 4a on the Dec. 12th agenda.

SPEAKERS: Phillip O'Brien, attorney for the appellant asked that the appeal be rescheduled to a meeting when all five Commissioners are present. Daniel Bornstein, attorney for permit holder, objected to a continuance since the project has already been delayed for some time. He said the building is in a dangerous condition.

MEETING MINUTES, BOARD OF APPEALS, DECEMBER 5, 2001

ITEMS (8A) & (8B) WERE HEARD TOGETHER:

(8A) **APPEAL NO. 01-164**

DEMAS YAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[547 – 23rd Avenue.
[Appealing a determination by the Director of [the Dept. of Building Inspection, dated [September 19, 2001, that the work performed [on the subject property at 547 – 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the site [permit (horizontal addition) is hereby revoked.
[APPLICATION NO. 9814760S
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-165**

DEMAS YAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[547 – 23rd Avenue.
[Appealing a determination by the Director of [the Dept. of Building Inspection, dated [September 19, 2001, that the work performed [on the subject property at 547 – 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the [permit (revisions to BPA 9814760S, garage [addition in front of existing house, shoring of [garage) is hereby revoked.
[APPLICATION NO. 2000/09/06/9833.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to reschedule the matter to January 16, 2002.

SPEAKERS: Demas Yan, appellant asked the Board to go forward with his two appeals since he intended to speak for himself. After a brief discussion with the Board concerning the risks involved in these two appeals he agreed to a rescheduling of his appeals to January 16, 2002.

(9) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.
[Appealing denial of Rear Yard Variance (third [floor addition of an existing legal non-[complying dwelling structure located in the [required rear yard)
[VARIANCE CASE NO. 2001.0615V
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to reschedule the matter to January 16, 2002.

SPEAKERS: None.

(10) **APPEAL NO. 01-129**

J.M. JOHNSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4465-4467 – 24th Street.
[Appealing determination dated July 19, 2001, [that there is no basis for granting legal non-[conforming status to the illegal third unit on [the subject property, and that if a zoning [reclassification is granted by the Planning [Commission and the Board of Supervisors, a [parking variance would be required for the [illegal third unit, as well as compliance with all [relevant provisions of City Codes.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to reschedule the matter to February 20, 2002.

SPEAKERS: None.

ITEMS (11A) & (11B) WERE HEARD TOGETHER:

(11A) **APPEAL NO. 01-190**

INDIA BASIN NEIGHBORHOOD ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[800 Innes Avenue.
[Protesting issuance on October 12, 2001, to [Doherty Painting, Permit to Demolish a [Building (two-story building, 24 feet in height, [with 4500sf of ground floor area).
[APPLICATION NO. 9910163.
[FOR HEARING TODAY.

(11B) **APPEAL NO. 01-191**

INDIA BASIN NEIGHBORHOOD ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[800 Innes Avenue.
[Protesting issuance on October 12, [2001, to Doherty Painting, Site Permit to [Erect a Building (four-story [residential/commercial building, 40 feet [in height, with 5100sf of ground floor [area).
[APPLICATION NO. 9910162S.
[FOR HEARING TODAY.

ACTION: These appeals were withdrawn by the appellant prior to hearing.

(12) **APPEAL NO. 01-171**

ROWENA WU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: None.

[1750 Folsom Street.
[Appealing denial on September 26, 2001, of Site [Permit to Erect a Building (three-story, forty-foot [building, catering/restaurant use, with 7,300sf of [ground floor area).
[APPLICATION NO. 2001/01/04/9224S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to overrule the Planning Commission and grant the subject permit with adoption of findings as prepared by the appellant's attorney, and with negative declaration findings incorporated by reference.

SPEAKERS: Larry Badiner, ZA, explained the new policies of the Commission regarding replacement of PDR uses. (Production-Distribution-Repair) and he said that the new Mission Interim Controls don't apply in this case. He said the proposed restaurant is in violation with the proposed controls. He said the plans before the Board have been modified since the Commission denied the application because the restaurant is deemed an inappropriate use at this site. And he wasn't convinced the wine distribution business will really be on the third floor. Michael Burke, attorney for the appellant, introduced the project manager and the architect to answer any technical questions and he described the outreach they have made and the support they have from organizations in the Mission. He noted that the project does conform to the present controls and that the Commission had erroneously applied controls to the project and he described the economic benefits the project would bring to the Mission.

PUBLIC COMMENTS FOR COMMISSION: Ada Chan of the Anti-Displacement Coalition described the loss of PDR uses and jobs. She said the catering and wine distribution parts of the project are welcome but the destination restaurant use is not. Eric Quesada of the Mission Displacement Coalition asked the Board to support the Commission because he and they are working on a neighborhood plan that will encourage the retaining of PDR industrial uses and jobs

which pay more than restaurant jobs. Chris Selig said that Mr. Burke had done real outreach to the neighborhood. He said the restaurant will increase land value but won't benefit the community. Robin Gettleson of the Rainbow Grocery across the street from the site said the project won't help the neighborhood but will cause parking congestion to the store's detriment.

PUBLIC COMMENT FOR APPELLANT: Rosario Anaya of the Mission Language School said the project would benefit the Mission and the school. Edgar Pacheco said he started at the bottom of the restaurant business and has worked his way up to sous chef in a fine restaurant. He thinks the restaurant will provide opportunities to others. Norman Scheel, said he has a factory in the Mission and he can't see how anyone would oppose investment in the Mission during this time of economic downturn. He said the appellant' s track record is good and maybe the restaurant will be affordable to people in the Mission. Brent Pollock said he will be the chef in the new restaurant and he explained how much restaurant employees earn in response to Board questions.

There being no further business, President Chin adjourned the meeting at 8:00 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

12-19-01A11:25 RCVD

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, DECEMBER 12, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **SPECIAL ITEMS:**

ITEM A: Debate and discussion concerning proposals to amend the Board Rules regarding the briefing schedule, speaking time allotment at hearing, and other issues.

ITEM B: Debate and discussion concerning a proposal to request that the Board of Supervisors amend the Municipal Code and allow the Board of Appeals to conduct public hearings without an official court reporter.

(4) **ADDENDUM ITEMS:**

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI, PDA & Kuhn vs. DBI, PDA, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ITEM B: 700 Vermont Street. Letter from Edward Mullins, agent for Hazel & Raymond Guaraglia, Requestors, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/06/20/1935 (demolish existing non-compliant residential units per NOV 200114983; remove all utilities to ground level; convert to original commercial space) for the purpose of appealing the penalty associated with said permit application.

Date permit issued:	June 20, 2001
Last day to appeal:	July 5, 2001
Date jurisdiction request received:	December 3, 2001

ITEM C: Adoption of a Notice of Special Restrictions (NSR) for the property at 2836 Washington Street, Appeal 01-138, 2836 Washington Street LLC vs. DBI, PCD, heard December 5, 2001. Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to overrule the denial by the Planning Commission, and grant the subject permit on condition that the doors to the rear decks be removed and replaced with windows, and with an NSR to be recorded prohibiting the use of the two roof areas as decks, with said NSR to be adopted on December 12, 2001.

(5) **APPEAL NO. 01-163**

BEATRIZ RIVAS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1762 La Salle Avenue.
[Protesting issuance on September 6, 2001, to
[Ricardo Orellana, Permit to Alter a Building
[(remove illegal kitchen and bath in basement
[unit, cap utilities at source, remove non-load
[bearing partition walls of bedroom and
[closets).
[APPLICATION NO. 2001/09/06/7754.
[HEARING RESCHEDULED BY BOARD
[FROM DEC. 5, 2001 FOR A REPORT BY DBI
[CONCERNING LIFE/SAFETY ISSUES
[THE SUBJECT PROPERTY.

(6) **APPEAL NO. 01-194**

CLYDE & LISA IKEDA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): RICHARD GARCIA,
ROBERT & DOROTHY CHAN

[2252 Beach Street.
[Appealing denial on October 16, 2001, of Site
[Permit to Alter a Building (third floor addition,
[interior remodel, one-story addition with
[terrace above located at rear)
[APPLICATION NO. 2000/10/20/3640S.
[FOR HEARING TODAY.

ITEMS (A) & (B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April [24, 2001, addressed to Randy Shaw of the [Tenderloin Housing Clinic, that the previous [tourist hotel use, the Empress Hotel, located in [the North of Market Special Use District No.1 [was a non-conforming use under Planning [Code Section 180, that the tourist hotel use has [been discontinued for a continuous [period of at [least three years and tourist hotel use [may not [be re-established except in compliance with [present requirements of City Codes as [applicable.
[PUBLIC HEARING HELD & CLOSED [OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(7B) **APPEAL NO. 01-082**

EMPRESS LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April [24, 2001, addressed to Randy Shaw of the [Tenderloin Housing Clinic, that the previous [tourist hotel use, the Empress Hotel, located in [the North of Market Special Use District No.1 [was a non-conforming use under Planning [Code Section 180, that the tourist hotel use has [been discontinued for a continuous period of at [least three years and tourist hotel use may not [be re-established except in compliance with [present requirements of City Codes as [applicable.
[PUBLIC HEARING HELD & CLOSED [OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(8) **APPEAL NO. 01-035**

ROBERT HEYMANN,
dba "NATIONAL RENTAL CAR", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Appealing Zoning Administrator determination [dated January 23, 2001 that a Police Permit [Application Zoning Referral for a Driverless [Auto Rental business is recommended for [disapproval for failure to meet various [policies [and objectives of the Planning Code and to [resolve the issues raised.
[PUBLIC TESTIMONY HEARD JUNE 13, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(9) **APPEAL NO. 01-172**

DON KEELY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3628 – 22nd Street.
[Protesting issuance on September 17, 2001, to [Peter Birmingham, Permit to Alter a Building [(install roof deck within envelope of building).
[APPLICATION NO. 2000/09/15/0630.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-173**

AMBROSE LUK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1851 – 31st Avenue.
[Protesting issuance on September 19, 2001, to [Sue Wong, Site Permit to Alter a Building [(horizontal rear addition).
[APPLICATION NO. 2000/07/13/5054S.
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-175**

JACKIE HOLLAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[271 Cumberland Street #5.
[Protesting issuance on September 24, 2001, to [Chuck Louden, Permit to Alter a Building [(comply with NOV, replacement roof deck, 2X4 [sleepers on asphalt roof (legalize existing [deck)).
[APPLICATION NO. 2001/09/24/9018.
[FOR HEARING TODAY.

12) **APPEAL NO. 00-255**

VERONICA &
GEORGE TEDESCHI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2526 Clement Street.
[Notice of Violation dated December 8, 2000, [that the cottage in the rear yard used as a [dwelling is in conflict with the RH-2 use district [limitations allowing a maximum of two dwelling [units on the site.
[FOR HEARING TODAY.

(13) **APPEAL NO. 01-107**

BARNES FAMILY TRUST, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[135-141 – 10th Street.
[Appeal of Determination dated June 13, 2001, [addressed to Marie Zeller at Petri Merker [Architects, that the establishment of architectural [offices is prohibited on the subject property [because it only has two stories, and Planning [Code Section 803.5(k) limits architectural offices [in the Service Light Industrial Residential zoning [district to occupancy on the third floor or above [with no more than 3,000sf per establishment per [building; and there is no evidence that a legal [non-conforming office use has been established [at the subject property.
[FOR HEARING TODAY.

(14) **APPEAL NO. 01-148**

EMILY TAN, ADRIENNE LEWIS &
JACQUELINE HAVEMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[14 University Street.
[Protesting issuance on August 13, 2001, to [Mele Lowman, Site Permit to Alter a Building [(rear two-story extension with one new bath, [rebuild existing stair case)
[APPLICATION NO. 2000/12/12/7774S.
[FOR HEARING TODAY.

(15) **APPEAL NO. 01-197**

EMILY JOY BENKERT, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[56 Sheridan Street.
[Protesting issuance on October 16, 2001, to [Richard Hart, Site Permit to Erect a Building [(five-story, four-unit building, 50 feet in height, [with 2,459sf of ground floor area).
[APPLICATION NO. 2001/05/15/9233S.
[FOR HEARING TODAY.

(16) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8, [2001, alleging that the subject property at 951-957 [Mission Street is being used for business or [professional offices that do not provide on-site [services to the general public with out benefit of [Conditional Use (CU) authorization from the [Planning Commission, in violation of Planning [Code Section 219(d).
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: December 6, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discu meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings a reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 58 2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, DECEMBER 12, 2001

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

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JAN - 7 2002

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None

(3) **SPECIAL ITEMS:**

ITEM A: Debate and discussion concerning proposals to amend the Board Rules regarding the briefing schedule, speaking time allotment at hearing, and other issues.

ACTION: Upon motion by President Chin, the Board voted 5-0 to adopt a revision of the Rules so that a sign-in sheet may be provided at hearings, but is not required. Upon motion by President Chin, the Board voted 5-0 to reject changes to the current oral testimony time limits. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to reject changes to the current page limits on briefs and exhibits. Upon motion by Commissioner McInerney, the Board voted 5-0 to adopt the following revisions to the Rules: a) to strike the Appellant's Supplemental Statement; b) to have a briefing schedule that entails a one-page letter at filing, an Appellant's Brief due fifteen (15) days from filing, a Permit Holder's Response Brief due seven (7) days after receipt of the Appellant's Brief, and the Appellant's Reply due ten (10) days after receipt of the Permit Holder's Response Brief, and with all cases to be scheduled within 45 days from filing. Upon motion by Commissioner McInerney, the Board voted 5-0 to adopt the following additional revisions to the Rules: written requests for rehearing shall be limited to 6 pages with unlimited exhibits, with the response to the request for rehearing due ten (10) days after filing of said request; and written

requests for jurisdiction shall be limited to 6 pages with unlimited exhibits, with the response to the request for jurisdiction due ten (10) days after filing of said request.

SPEAKERS: Sue Hestor speaking for herself said she is troubled by limit on exhibits and attachments to briefs because the Planning record needs to be included at time and is often lengthy. She also objects to manipulation of hearing dates of appeals of Notice of Violation; there is too much flexibility for the appellants in violation. She reminded the Board theirs is the only record parties have. Dick Millet from Potrero Hill said the rules favor developers who are not cooperative and the neighbors need more time and protection in the appeal process. Jeff Demma said the appeals process is very complex and time consuming. Protestors used legal counsel since citizens haven't the time to meet all the rules which are overwhelming. He opposes reducing time for document submittals. Jeremy Paul said he supports changes in the Rules and feels there is too much dead time in the process and earlier submittals will put real issues on the table earlier in the process and lead to permit holders being more willing to reach accommodation with protesters. Andrew Zacks said that limiting exhibits to briefs would be a problem because it would limit submittal of relevant evidence. He said if a limit is imposed that there should be a way of requesting permission to submit additional exhibits.

ITEM B: Debate and discussion concerning a proposal to request that the Board of Supervisors amend the Municipal Code and allow the Board of Appeals to conduct public hearings without an official court reporter.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to refer the matter to the Board of Supervisors.

(4) **ADDENDUM ITEMS:**

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI, PDA & Kuhn vs. DBI, PDA, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ACTION: This matter was rescheduled to January 9, 2002 prior to hearing at request of parties..

ITEM B: 700 Vermont Street. Letter from Edward Mullins, agent for Hazel & Raymond Guaraglia, Requestors, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/06/20/1935 (demolish existing non-compliant residential units per NOV 200114983; remove all utilities to ground level; convert to original commercial space) for the purpose of appealing the penalty associated with said permit application.

Date permit issued:	June 20, 2001
Last day to appeal:	July 5, 2001
Date jurisdiction request received:	December 3, 2001

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to grant jurisdiction.

SPEAKERS: Laurence Kornfield said that if work done without permit was done by a previous owner or otherwise met the DBI guidelines the penalty would not be more than two times the regular fee and the Building Code has no time period for appealing for refund of penalty. The appellant Edward Mullins rose to speak but didn't testify.

ITEM C: Adoption of a Notice of Special Restrictions (NSR) for the property at 2836 Washington Street, Appeal 01-138, 2836 Washington Street LLC vs. DBI, PCD, heard December 5, 2001. Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to overrule the denial by the Planning Commission, and grant the subject permit on condition that the doors to the rear decks be removed and replaced with windows, and with an NSR to be recorded prohibiting the use of the two roof areas as decks, with said NSR to be adopted on December 12, 2001.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to January 16, 2002.

SPEAKERS: Rene Peinado, permit holder, said that the issue is clear and simple.

(5) **APPEAL NO. 01-163**

BEATRIZ RIVAS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1762 La Salle Avenue.
[Protesting issuance on September 6, 2001, to
[Ricardo Orellana, Permit to Alter a Building
[(remove illegal kitchen and bath in basement
[unit, cap utilities at source, remove non-load
[bearing partition walls of bedroom and
[closets).
[APPLICATION NO. 2001/09/06/7754.
[HEARING RESCHEDULED BY BOARD
[FROM DEC. 5, 2001 FOR A REPORT BY DBI
[CONCERNING LIFE/SAFETY ISSUES AT
[THE SUBJECT PROPERTY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney absent) to reschedule the matter to March 20, 2002, and for the life/safety issues referenced by the DBI to be remedied immediately.

SPEAKERS: Laurence Kornfield, CBI, DBI, reported on the safety issues at 1762 La Salle as requested by the Board and said that he made the visit with the permit holder's attorney and the unit is only marginally habitable but with minimum alterations would have no safety problems. Harold O'Brien, attorney for the owner said his client has agreed to most of the minor alterations pointed out by the chief inspector. David Bornstein attorney for the tenant said that the unit is terribly substandard and the ventilation is inadequate. He said the litigation continues.

MEETING MINUTES, BOARD OF APPEALS, DECEMBER 12, 2001

(6) **APPEAL NO. 01-194**

CLYDE & LISA IKEDA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): RICHARD GARCIA,
ROBERT & DOROTHY CHAN

[2252 Beach Street.
[Appealing denial on October 16, 2001, of Site
[Permit to Alter a Building (third floor addition,
[interior remodel, one-story addition with
[terrace above located at rear)
[APPLICATION NO. 2000/10/20/3640S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to continue the matter to January 9, 2002, with the public hearing closed, and for the Appellants, § 14 Principals and Planning Department to try to come up with a compromise.

SPEAKERS: Gerald Green, Director of Planning, said the issue in the appeal is access to light and air by the neighbors. There have been three light analyses made for this case. If upper floor of proposed addition is reduced in size it will minimize the impact of the addition on the property to the south. This will impact size of proposed bedrooms. The planning staff approved of this addition for the applicant's growing family. John Sanger, attorney for appellants said that the Planning staff had recommended approval of the project but the Commission had denied it anyway. He advised the Board to make a site inspection to see how reasonable the proposal is. He said it meets the Residential Design Guidelines. Graham Maloney, attorney for Garcia, an abutting neighbor who had requested DR, introduced Mr. Garcia's architect Larry Paul who explained how the proposal is out of scale with its neighbors. Paul LaBerge, light consultant for the neighbor, explained how the proposed addition will cast shadows on his client's property.

PUBLIC COMMENT FOR PLANNING COMMISSION: Father Thomas McDonnell said the project needed to be revised because the sunlight is so necessary for Mr. Garcia.

PUBLIC COMMENT FOR APPELLANTS: Joe O'Donoghue said he feels light should be provided for a house by its own light wells. He said Mr. Garcia's project added shadows to the appellants' property and that the expansion is needed for Dr. Ikeda's aged disabled mother who is wheelchair bound and has a caregiver. He said the ADA protects projects like this one. Bob Planthold said the Commission is not responsive to the accessibility issue and here was speaking doublespeak as in George Orwell's 1984. Brad Moring, M.D. read a Mayor's Proclamation for the appellant for all his community medical efforts. Mary Bulata, architect, said she has worked on affordable housing projects with Mrs. Ikeda as well as housing for the disabled. Here the Ikedas were trying to provide a home for his disabled mother. She has reviewed the plans and agrees they are appropriate for the family's needs and they meet ADA requirements for accessibility. Anita Sanchez said the addition is to accommodate the disabled mother and her caregiver and the project is totally in character with the neighborhood. James Zuckerman said there are no houses with setbacks in the neighborhood. Ed Dollard, the father of Lisa Ikeda said that the project is within the ordinance. Dennis Cartland said he is a contractor who has built many additions in the City and he has never seen such setbacks required as here. Norman Bouton said you can't build anything in the City without blocking someone's light and air. The three light studies are all different and light consulting is just an art and not a science. Lisa Gelfand said she is an architect practicing in the

City and that the project meets all Codes and the Commission makes it impossible to practice when the project is not near the maximum envelope allowed yet is being cut back. There is a civil rights issue here. She said the access problem trumps all other issues under the FHA. This family needs larger rooms for their circumstances. Barbara Smith said she has been developing housing for twenty-five years and she supports the project John Wilkinson said the Commission's action is disturbing and sets an awful precedent as well as adding to the cost of the project. Veronica Spence said she has lived on Beach Street for fifty years and this is the first time there has been quibbling over a proposed addition and the Chans took three and a half years to remodel. Issa Eshima said that Dr. Ikeda had a day named for him to show the City's appreciation for his efforts. Harry Joel said he lives on Beach Street. He thinks what the Ikedas had to go through is a travesty. Shadowing issue is ridiculous because there is so much fog in the neighborhood. Tucker Benton said the Ikedas live there but Garcia doesn't. He was shocked by Planning decision. Edward Dollard said he has sixty letters supporting the Ikedas and he read a letter of support from fire fighter Robert Gurman. Vilwillers, architect for the project said the new ceiling replicates the ceilings in the rest of the house. Bob Chan, a Section 14 principal said that the 4,000sf expansion is too much for the area and Planning Commission was correct in disapproving plans which are for a family of five people. He said 73% of his light will be lost if proposed addition is built. .

ITEMS (7A) & (7B) WERE HEARD TOGETHER:

(7A) **APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April [24, 2001, addressed to Randy Shaw of the [Tenderloin Housing Clinic, that the previous [tourist hotel use, the Empress Hotel, located in [the North of Market Special Use District No.1 [was a non-conforming use under Planning [Code Section 180, that the tourist hotel use has [been discontinued for a continuous [period of at [least three years and tourist hotel use [may not [be re-established except in compliance with [present requirements of City Codes as [applicable.
[PUBLIC HEARING HELD & CLOSED [OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(7B) **APPEAL NO. 01-082**

EMPRESS LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April [24, 2001, addressed to Randy Shaw of the [Tenderloin Housing Clinic, that the previous [tourist hotel use, the Empress Hotel, located in [the North of Market Special Use District No.1 [was a non-conforming use under Planning [Code Section 180, that the tourist hotel use has [been discontinued for a continuous period of at [least three years and tourist hotel use may not [be re-established except in compliance with [present requirements of City Codes as [applicable.
[PUBLIC HEARING HELD & CLOSED [OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney absent) to continue the matters to January 9, 2002 with the public hearing still closed, and for these cases to be first on the calendar.

SPEAKERS: Andrew Zacks, attorney for appellant Empress Hotel, requested a rescheduling so that his client will have the benefit of a five-member Board. Randy Shaw, attorney for the determination holder Tenderloin Housing Clinic, objected to a continuance but asked that if it is put over that it be put first on the calendar.

(8) **APPEAL NO. 01-035**

ROBERT HEYMANN,
dba "NATIONAL RENTAL CAR", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Appealing Zoning Administrator determination [dated January 23, 2001 that a Police Permit [Application Zoning Referral for a Driverless [Auto Rental business is recommended for [disapproval for failure to meet various [policies [and objectives of the Planning Code and to [resolve the issues raised.
[PUBLIC TESTIMONY HEARD JUNE 13, 2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: This matter was withdrawn by the appellant.

(9) **APPEAL NO. 01-172**

DON KEELY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3628 – 22nd Street.
[Protesting issuance on September 17, 2001, to
[Peter Birmingham, Permit to Alter a Building
[(install roof deck within envelope of building).
[APPLICATION NO. 2000/09/15/0630.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to uphold the subject permit on condition that the roof deck include an eight-foot lattice fence with vines along the side of the roof deck that faces the appellant's property.

SPEAKERS: Robin Rudderow, attorney for appellant said that the drawing given to the neighbors used different scales for project and for neighbor's house, and is therefore very misleading. Joel Yodowitz, attorney for permit holder, said that the drawing wasn't part of the plans and house was built according to plans and not to drawing. Carla Johnson, architect, said that the roof deck wasn't on the plans before the Planning Commission as the DR hearing and her client agrees to the roof deck if the height of the roof is lowered three feet as shown on the drawing. The DR hearing was never held and no agreement was recorded. She objects to client called intransigent in the appellant's brief. Joel Yodowitz, attorney for permit holder said the appeal is only for the permit covering the second floor deck. He said the plans had been reviewed by Ms. Rudderow. There is nothing wrong with the proposed deck and the only issue is loss of privacy and there is eleven feet between the two houses. His client suggested putting a wall along the property line to screen the view into windows; and the appellant responded in the negative, saying he wants the roof lowered three feet even though it is now built. Thus the appeal. Larry Badiner, ZA corrected an earlier statement and said that there was no Section 311 notification required for the deck permit application, nor for the dormer.

NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 01-173**

AMBROSE LUK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1851 – 31st Avenue.
[Protesting issuance on September 19, 2001, to
[Sue Wong, Site Permit to Alter a Building
[(horizontal rear addition).
[APPLICATION NO. 2000/07/13/5054S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner McInerney recused) to uphold the subject permit.

SPEAKERS: Ambrose Luk, appellant, said he opposes the permit for his neighbor's rear extension because it extended far beyond his building. He said the permit holder's fire had damaged his house and he has no insurance. The survey was paid for by him and the two other appellants. Project three inches over the property line encroaches over his property line. He is concerned about losing privacy and warmth in his son's room from sunlight. Permit holders claim that

downstairs is for their parents but he thinks it will be rented. Patrice Fambrini of Jaidin Consulting speaking for the permit holder said that she has filed an application to legalize and replace the rear addition, 800 square feet above the garage with much open space on this large lot remaining. The permit meets all Code provisions and all the requirements of the Commission for revisions have been incorporated in the plans before the Board. She said her client has two children and aged parents living with them and they need additional living space. All windows along the Luk property line have been removed and an NSR has been recorded restricting use of the house to single family. Sue Wong, permit holder, said that the survey cost her three thousand dollars and has been delivered to the appellant and the other neighbors.

(11) **APPEAL NO. 01-175**

JACKIE HOLLAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[271 Cumberland Street #5.
[Protesting issuance on September 24, 2001, to
[Chuck Louden, Permit to Alter a Building
[(comply with NOV, replacement roof deck, 2X4
[sieepers on asphalt roof (legalize existing
[deck)).
[APPLICATION NO. 2001/09/24/9018.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Vice President Saunders and Commissioner McInerney absent) to reschedule the matter to February 6, 2002 and for it to be placed first on the agenda.

SPEAKERS: Jackie Holland, appellant, asked for a continuance to a date when all five members are present since Vice President Saunders had left for the night. She is available February 6, 2002. Chuck Louden, permit holder said that he is available on February 6, 2002.

(12) **APPEAL NO. 00-255**

VERONICA &
GEORGE TEDESCHI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2526 Clement Street.
[Notice of Violation dated December 8, 2000,
[that the cottage in the rear yard used as a
[dwelling is in conflict with the RH-2 use district
[limitations allowing a maximum of two dwelling
[units on the site.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to reschedule the matter to January 30, 2002 with no more rescheduling.

SPEAKERS: None

(13) **APPEAL NO. 01-107**

BARNES FAMILY TRUST, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[135-141 – 10th Street.
[Appeal of Determination dated June 13, 2001, [addressed to Marie Zeller at Petri Merker [Architects, that the establishment of architectural [offices is prohibited on the subject property [because it only has two stories, and Planning [Code Section 803.5(k) limits architectural offices [in the Service Light Industrial Residential zoning [district to occupancy on the third floor or above [with no more than 3,000sf per establishment per [building; and there is no evidence that a legal [non-conforming office use has been established [at the subject property.
[FOR HEARING TODAY.

ACTION: This matter was withdrawn by the appellant prior to hearing.

(14) **APPEAL NO. 01-148**

EMILY TAN, ADRIENNE LEWIS &
JACQUELINE HAVEMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[14 University Street.
[Protesting issuance on August 13, 2001, to [Mele Lowman, Site Permit to Alter a Building [(rear two-story extension with one new bath, [rebuild existing stair case)
[APPLICATION NO. 2000/12/12/7774S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney absent) to uphold the subject permit on condition that the permit holder clean up the backyard and remove all structures in the backyard pursuant to Building and Planning Code requirements.

SPEAKERS: Adrienne Lewis, co-appellant, said she opposes project because the neighborhood is already congested with cars and she asks that Planning Commission require more than one space per dwelling unit. Emily Tam, co-appellant, said the owner has built an illegal structure in his back yard and it is more than 100sf in area with a rusty metal roof that is an eyesore. She showed photos of the yard. She said the permit holder is not a good neighbor and there has been no communication between them.

Kevin McDonough, attorney for the permit holder, described his client as a hard working single mother and he said there is no legal justification to deny the permit. He said he has told her to keep her dong on best behavior and tethered in the yard and clean it up and start a dialog with her neighbors. He said sheds don't need permits and there are no SFPD, SFDPH problems. His client is friendly and generous and has her extended family living with her.

No public comment for either side.

Larry Badiner, ZA, said the Code allows on rear yard an obstruction eight feet in height and up to 100 square feet in area. Here it was measured and it meets the Code, however, multiple sheds concern him. Situation is a violation of Section 202 because yard is offensive.

(15) **APPEAL NO. 01-197**

EMILY JOY BENKERT, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[56 Sheridan Street.
[Protesting issuance on October 16, 2001, to [Richard Hart, Site Permit to Erect a Building [(five-story, four-unit building, 50 feet in height, [with 2,459sf of ground floor area).
[APPLICATION NO. 2001/05/15/9233S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 3-0-2 (Vice President Saunders absent, Commissioner McInerney recused/absent) to reschedule the matter to January 16, 2002, and for it to be the first case on the agenda.

SPEAKERS: Emily Joy Benkert, appellant, asked for a continuance for a five member Board but said she is not available on January 9, 2002, but she is available on January 16, 2002. David Silverman, attorney for the permit holders asked for January 9 but agreed to have the case heard on January 16, 2002 and asked that the matter be set at the beginning of the calendar if on January 16, 2002.

(16) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8, [2001, alleging that the subject property at 951-957 [Mission Street is being used for business or [professional offices that do not provide on-site [services to the general public with out benefit of [Conditional Use (CU) authorization from the [Planning Commission, in violation of Planning [Code Section 219(d).
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Then, upon motion by President Chin, the Board voted 2-2-1 (Commissioner Cullum & Commissioner El Qadag dissented; Commissioner McInerney recused) to reschedule the matter to January 30, 2002. Three votes being necessary to reschedule a case, the motion failed and the case resumed its place on the night's agenda. Afterwards, upon motion by President Chin, the Board voted 3-0-2 (Vice President Saunders absent, Commissioner McInerney recused/absent) to

reschedule the matter to January 9, 2002, and for it to be placed right after the West Cork Hotel case on the agenda.

SPEAKERS: Larry Badiner, ZA, said that if there is service to the public at the bottom level then no conditional use authorization.

There being no further business, President Chin adjourned the meeting at 10:33 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.